

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM

THE HON'BLE MR. JUSTICE B. RAJENDRAN

W.P. No. 17512 of 2016

R. Abirami

.. Petitioner

Versus

1. The Chairman
State Bank of India
Corporate Centre
State Bank Bhavan
Madam Cama Road
Mumbai - 400 021
 2. SBIOA Educational Trust
represented by its Secretary
SBOA School and Junior College
18, School Road
Anna Nagar Western Extension
Chennai - 600 101
 3. Ministry of Finance
Government of India
Department of Economic Affairs
Banking Division
New Delhi
 4. The Chairman
Central Board of Secondary Education
Shiksha Kendra, 2, Community Centre
Preet Vihar, Delhi - 110 092
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the Respondent 1 to forhear the Respondents 2 and his office bearers of the trust who is a present employee of state Bank of India, to disist from assoiating themselves with the SBIOA Educational Trust or holding office in the Trust as per the direction of the supreme Court of India in WP.1993 of 1985.

For Petitioner : Mrs. Abirami, Petitioner-in-Person
For Respondents : Mr. P.D. Audikesavalu for R1
Mr. C. Jagadish for R2
Mr. T.V. Ramanujam., S.C. For
Mr. D. Ramesh Kumar, CGSC - for R3
Mr. G. Nagarajan for R4

ORDER

This writ petition has been filed by the Petitioner, who is a former employee of the State Bank of India Officers Association (SBOA) School, which is being run by the second respondent Educational Trust. In this writ petition, the petitioner seeks for issuing a Mandamus to direct the first respondent to forbear the office bearers of the second respondent, being present employees of State Bank of India, from associating themselves with the second respondent Trust or holding any position in the second respondent Trust, in the light of the dictum laid down by the Honourable Supreme Court of India in W.P. No. 9933 of 1985.

2. The petitioner would contend that as per the decision rendered by the Honourable Supreme Court of India, the officers of the Bank cannot act as a trustee and hold an office of profit. There is a bar for such employees to be a Trustee of the trust especially in involving and/or collecting funds. In this case, the officials who are employed in State Bank of India have engaged themselves as trustees in the Trust run by the second respondent and thereby they are receiving pecuniary gains. This according to the petitioner is an act of misfeasance and malfeasance on the part of the employees of the bank. The petitioner also brought to the notice of this Court the circular issued by the State Bank of India prohibiting their employees from acting as office bearers of any Trust or from indulging in any fund collection on behalf of the trust from any one, including the clients of the bank. When that being so, according to the petitioner, some of the employees of the bank have been acting as Trustees in the Trust and are getting monetary benefits out of such Trusteeship and it is in violation of the order passed by the Honourable Supreme Court as well as the circular issued by the State Bank of India. The petitioner has also given a complaint to the first respondent specifically stating that the first respondent has to prohibit any of the employees of the State Bank of India from acting as trustees of the second respondent Trust and indulge in fund collection, including donation from the parents who admits their wards in the schools run by the second respondent trust.

3. The first respondent has filed a counter affidavit contending inter alia that pursuant to the order passed by the Honourable Supreme Court in WP No. 9933 of 1985 dated 06.04.1985, the first respondent has issued a Circular on 18.02.1998 in which it was reiterated that collection of funds should not be made by any employee in any capacity whatsoever and no employee shall promote or constitute or associate himself with any trust which directly or indirectly contains the Bank's name or provides for collection of funds from the public including the Bank's clientele. According to the first respondent, the instructions contained in the Circular dated 18.02.1998 is being followed strictly and any violation of the instructions given therein by any of the employees of the Bank will be viewed strictly. As regards the administration of the second respondent trust, a suit was filed under Section 92 of the Code of Civil Procedure before this Court for passing a scheme decree and the suit was dismissed. On appeal in O.S.A. No. 193 of 1998 filed by the second respondent Trust, the Division Bench of this Court, by judgment dated 06.04.1992 (reported in 1992-2-MLJ 560) allowed the Appeal and remanded the case for disposal before the Original side of this Court. The first respondent has also issued instructions to the employees of their Bank to enforce the directions contained in the Order dated 06.04.1985 passed in WP No. 9933 of 1985 strictly without any deviation. As regards the averments of the petitioner, it is contended that they are nothing but falsehood. If any specific complaint is made against a particular employee who associates himself as a Trustee with the second respondent Trust for gain or for any pecuniary advantage, then the first respondent will resort to take action in accordance with law.

4. The second respondent has filed a detailed counter affidavit contending inter alia that the averments of the petitioner that the employees of the State Bank of India are holding the post of Office Bearers in their Trust for pecuniary gain or advantage is absolutely false. According to the second respondent, the Trust was registered under the Tamil Nadu Societies Registration Act and it is managed by a committee of elected office bearers who are the elected office bearers of the State Bank of India Officers Association. Further, it was submitted that the petitioner was employed as a teacher in the schools run by the second respondent in the year 2002. As the petitioner indulged in certain activities which were detrimental to the reputation gained by the institution, she was dismissed from service after following the procedures contemplated under the Regulations of the second respondent Trust. The petitioner has also filed a Statutory Appeal before the appellate authority challenging the order of dismissal passed against her and the appeal was rejected. Aggrieved by the same, the petitioner has also filed WP No. 31310 of 2014 before this Court and it is

pending. Therefore, according to the second respondent, the petitioner, an ex-employee employed in the Schools run by the second respondent Trust has come forward with this writ petition only to harass the second respondent Association to wreck personal vengeance. It is specifically contended that the facts involved in the order passed by the Honourable Supreme Court in WP No. 9933 of 1985 (Canara Bank case) has no application to the case projected by the petitioner. In the said decision, the Honourable Supreme Court has found that the employees of Canara Bank have indulged in raising funds by collecting donations from the customers of the Bank. In the present case, the second respondent Association is not collecting any donations through its office bearers from the customers of the Bank. The Trust was formed with an avowed object of providing education to the public as well as wards of the Bank. The second respondent has established 9 schools in Tamil Nadu and one in Kerala. The second respondent has employed 1500 teaching and non-teaching staff and 30000 students are studying in these schools. The fees collected from the students are duly accounted for and such fees is being collected as per the fees fixed by the School Fees Determination Committee constituted by the Government. The office bearers and the Trustees of the second respondent trust are only overseeing the administration and they are not taking active part in the day to day administration and management of the schools. The office bearers are not paid any monetary remuneration for the services rendered by them and their service is honorary and they are not paid any honorarium. For discharging such honorary work, no prior permission or sanction is required. Such honorary work is being discharged by the office bearers for the upliftment of the activities of the second respondent Trust especially when it caters to the educational needs of the wards of the bank. The educational institutions are managed by professionally skilled persons in the cadre of Principal, Vice-Principal, Headmaster and paid Managers. As far as the second respondent is concerned, none of the employees of the Bank, who are holding the post of Trustee or Office Bearers of the Trust have indulged in fund collection. The petitioner has made generic allegations as though the office bearers have indulged in fund collection without specifically naming any officer who indulged or involved in such acts of fund collection. The accounts of the second respondent Trust are periodically audited in the light of the conditions stipulated in the byelaws of the second respondent trust. The second respondent is also filing the annual returns to the Registrar of Societies periodically. The second respondent Trust is also filing the necessary form VI and VII with the Registrar of Societies periodically and the audited accounts have also been accepted by the Registrar of Societies. According to the second respondent, the writ petition has been filed with the only object of seeking reinstatement in to service indirectly. At

any rate, the writ petition filed at the instance of the petitioner, who was dismissed from service of the schools run by the second respondent Association, need not be entertained by this Court.

5. I heard the petitioner-in-person, the learned counsel appearing for the respective respondents and perused the entire records made available. A preliminary objection has been raised by the learned counsel for the second respondent as regards the maintainability of this writ petition inasmuch as the petitioner was an estranged dismissed employee, employed as a Teacher in one of the schools run by the second respondent Trust and she cannot be entitled to file this writ petition. Such a contention cannot be accepted by this Court. The petitioner brings to the notice of this Court certain violation or lapses made in the administration of the second respondent Trust and it's correctness can be tested by this Court. In fact, any one can bring to the notice of this Court any violation, of course, it has to be proved to the satisfaction of this Court. Therefore, the preliminary raised by the learned counsel for the second respondent cannot be countenanced.

6. Admittedly, the second respondent Trust has filed a suit for framing a scheme decree which is now pending before this Court. It is needless to mention that if once a decree is granted framing certain guidelines to be followed, it has to be scrupulously followed by the second respondent.

7. As regards the averments raised by the petitioner regarding involvement of bank employees in the management of the second respondent trust for gaining pecuniary advantage, it is seen from the affidavit filed in support of the writ petition that the affidavit is bereft of any material particulars. The petitioner has not brought to the notice of this Court a particular employee who indulged either in fund collection or getting any other pecuniary advantage. The petitioner has also not produced any documentary evidence to show that the trustees or office bearers indulged in collecting donation from the parents of the wards who admits the children in the schools run by the second respondent Trust. It is no doubt true that the employees of the Bank should desist from associating themselves in fund collection or get any pecuniary advantage by reason of such association with the second respondent bank. However, it is stated in the counter affidavit of the second respondent that the office bearers are working for the betterment of the second respondent trust as a honorary employee and they are not paid any amount for such work being discharged by them. In such circumstances, it is for the petitioner to prove the contrary by material evidence. Merely because the employees of the bank associate themselves with the administration of the Trust, that itself will not be a violation of the order passed by the

Honourable Supreme Court in Canara Bank case mentioned supra or the circular issued by the State Bank of India. It has to be first proved that the employees associate themselves with the affairs of the Trust for pecuniary gain or advantage. In the absence of proof of such an act on the part of the employees of the Bank, the averments raised by the petitioner cannot be sustained.

8. Admittedly, the second respondent trust is a registered Trust under the Tamil Nadu Societies Registration Act. The trust was also recognised by the management. The second respondent Trust is running 9 schools in Tamil Nadu and one in Kerala in which 1500 teaching and non-teaching staff are working for imparting education to around 30000 students studying there. Such a vast institution requires some management support to the office bearers of the Trust to give proper guidelines for the betterment of the administration by way of their rich experience as employees of the Bank. However, if he acts of a Trustee for pecuniary gain or advantage and indulge in fund collection or collecting donation from the parents, then certainly it will be a violation of the order passed by the Honourable Supreme Court and in violation of the Circular issued by the State Bank. For proving such violation, it is for the petitioner to bring out the misfeasance or malfeasance on the part of the employee in particular. However, the petitioner failed to prove the act of a particular employee who indulged in either fund collection or had derived pecuniary advantage. In the affidavit, barring certain bald statements, the petitioner did not bring to the notice of this Court the specific violation committed by a particular employee who has violated or contravened the Circular issued by the first respondent. On the contrary, the second respondent would contend that the employees of the bank work as honorary workers for the betterment of the second respondent Trust. In such circumstances, this Court is not inclined to grant any relief in this writ petition. However, it is made clear that if the petitioner brings to the notice of the first respondent any specific violation committed by a particular employee with adequate proof to prove the same, then the first respondent can proceed further in accordance with law after following the due procedures contemplated in the Regulations of the Bank.

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In the light of the above, no relief can be granted to the petitioner in this writ petition. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman
State Bank of India
Corporate Centre
State Bank Bhavan
Madam Cama Road
Mumbai - 400 021
2. Ministry of Finance
Government of India
Department of Economic Affairs
Banking Division
New Delhi
3. The Chairman
Central Board of Secondary Education
Shiksha Kendra, 2, Community Centre
Preet Vihar, Delhi - 110 092

+1cc to Mr.G. Nagarajan, Advocate, S.R.No.18929
+1cc to Mr.D. Ramesh Kumar, Advocate, S.R.No.18761
+1cc to Mr. C. Jagadish, Advocate Sr.No.18746
+1cc to Mr. P.D. Audikesanulu, Advocate Sr.No.18611

svi(CO)
md(10/04/2017)

WP No. 17512 of 2016