



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.4807 of 2016

and

MP(MD) No. 4313 of 2016

V.Vijayalakshmi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Secretariat, Chennai.
2. The Director of Elementary Education,
O/o the Director of Elementary Education,
D.P.I. Complex, Chennai.
3. The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
collectorate Campus,
Karur, Karur District.
4. The Assistant Elementary Educational Officer,
O/o the Assistant Elementary Educational Office,
Aasath Road, karur, Karur District.
5. The Secretary,
Raja Aided Middle School,
Vedichipalayam Post, Puliyur,
Karur District.
6. Mr.M.Jawahar,
The Secretary,
Raja Aided Middle School,
Vedichipalayam Post, Puliyur,
Karur District.

... Respondent

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned suspension order issued by the 5th/6th respondents in his private capacity R.C.No.14/2015 dated 04.08.2015 and quash the same as illegal.



For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel for Ajmal Associates
For R1 to R4 : Mr.J.Gunaseelan Muthiah,
Government Advocate.
For R5 & R6 : No appearance

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ORDER

Heard Mr.M.Ajmal Khan, the learned Senior Counsel appearing for the petitioner and Mr.J.Gunaseelan Muthiah, the learned Government Advocate appearing for the respondents 1 to 4.

2.The petitioner was appointed as Secondary Grade Teacher in the 5th respondent school on 21.09.1995. The 5th respondent school is a non-minority private aided school and it is governed by the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.

3.After assumption of 6th respondent as the Secretary of the school, it is alleged by the petitioner that there was some dispute and as a result, the petitioner has stated in the affidavit that he was placed under suspension by proceedings dated 04.08.2015 by invoking Rule 17(e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955. The said Rule is not applicable to the petitioner.

4. The order of suspension though cannot be continued beyond two months without prior approval of the third respondent, the impugned order of suspension dated 04.08.2015 was permitted to be continued. Though by order dated 02.09.2015 the third respondent has permitted the 5th respondent to continue the order of suspension for a period of two months from the date of suspension, the petitioner was not reinstated in service on expiry of two months from the date of suspension.

5.Since statutory requirement to get prior approval for extending the suspension beyond the period of two months is not satisfied, it is submitted by the learned Senior Counsel for the petitioner that the order of suspension beyond the period of two months is illegal and the impugned order of suspension cannot stand.

6. Despite notice to the contesting respondents, namely, respondents 5 and 6 in the writ petition, none appears for them. In view of the fact that notice to respondents 5 and 6 were served the names were printed in the cause list. The names of respondents 5 and 6 were called in open Court. None appeared and there was no representation. Therefore, this Court preceded to dispose of the writ petition on merits.

<https://hccs.courts.gov.in/hccs/jcs/>

7. Having regard to the settled proposition of law and



the specific Provisions under the Tamil Nadu Recognised Private School (Regulation) Act, 1973, the order of suspension cannot be allowed to continue beyond the period of two months without prior approval of the third respondent. The fact that the third respondent did not permit the respondents 5 and 6 to continue the period of suspension beyond the period of two months is not in dispute. The impugned order also indicates that the 5th respondent, who is the Secretary of the School, has not applied his mind with regard to Provisions of the Tamil Nadu Recognised Private School (Regulation) Act, 1973 particularly the Rules framed thereunder. As a matter of fact, as indicated earlier, the order of suspension itself was passed by invoking the power under Rule 17(e) of Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, which is not applicable in the case of private schools governed under the Provisions of Tamil Nadu Recognised Private School (Regulation) Act, 1973. There is a statutory injunction by Clause 3(b) of Section 22, which is extracted hereunder:

"No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee.

Provided that the competent authority may, for reasons to be recorded in writing extend the said period of two months, for a further period not exceeding two months, if in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other person."

8. In view of the specific statutory prohibition to extend the period of suspension beyond the period of two months the impugned order has no leg to stand and therefore it is set aside.

9. In the result, this writ petition is allowed and the respondents 5 and 6 are directed to reinstate the petitioner forthwith. No costs. Connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To

1. The Secretary,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.
 2. The Director of Elementary Education,
O/o the Director of Elementary Education,
D.P.I. Complex, Chennai.
 3. The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
collectorate Campus,
Karur, Karur District.
 4. The Assistant Elementary Educational Officer,
O/o the Assistant Elementary Educational Office,
Aasath Road, karur,
Karur District.
- + 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 50079
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50402

MYR/TSG

TE/JC : 18/04/2017 : 4P/7C

W.P. (MD) No.4807 of 2016
and
MP (MD) No. 4313 of 2016
04.04.2017