



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A. [MD] .No. 999 of 2013

and

M.P. (MD) No.1 of 2013

M.Arul Bose

... Appellant

Vs.

1.The Member Secretary,
Sports Development Authority of Tamilnadu,
No.116 A, E.V.R.Periyar High Road,
Nehru Park, Chennai - 84.

2.The Regional Senior Manager,
Sports Development Authority of Tamil Nadu,
Tirunelveli Region,
Tirunelveli - 2.

3.The District Sports Officer,
Sports Development Authority of Tamil Nadu,
Anna Stadium, Nagercoil,
Kanyakumari District.

4.The Enquiry Officer cum Deputy General Manager,
No.116A, E.V.R.Periyar High Road,
Nehru Park, Chennai -84.

... Respondents

PRAYER : Writ Appeals are filed under Clause 15 of the Letters Patent, to set aside the order dated 06.08.2013 passed in W.P.(MD) No.13086 of 2013 on the file of this Court.

Prayer in WP(MD) . 13086/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus, calling for the records pertaining to the Impugned Order passed by the 4th respondent in Na.Ka.No.15478/Ni.APa-1/2012, dated 15.04.2013, quash the same and direct the 4th respondent to call for the documents requested by the petitioner dated 20.02.2013, 16.03.2013 (two letters) and 08.04.2013 from the respondents 1 to 3 and give a copy of the same to the petitioner within the time stipulated by this Honourable Court.



For Respondent

: No Appearance for R1
Mr.T.S.Md. Mohideen,
AGP for RR2 to 4

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JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

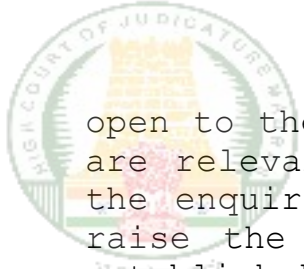
The unsuccessful writ petitioner is on appeal, challenging the order dated 06.08.2013 made in W.P.(MD) No.13086 of 2013.

2.The writ petitioner is employed as a Coach by Sports Development Authority of Tamil Nadu. The writ petitioner was suspended by order dated 03.12.2012. Subsequently, charges were levelled against him pertaining to sexual harassment of the students, who were on training and who are studying in Anna Stadium in Nagercoil. The writ petitioner upon receipt of the charge memo made a request for making available certain documents. In the meanwhile, the Enquiry Officer was appointed. The writ petitioner wanted enquiry proceedings to be deferred since the documents sought for by him were not furnished. The enquiry officer while postponing the enquiry proceedings made it clear that the documents sought for by him are not relevant to the charges levelled against him and therefore, they were not required to be given. It is this communication dated 15.04.2013 issued by the enquiry officer that was challenged in W.P.(MD) No.13086 of 2016. The learned Judge dismissed the writ petition by order dated 06.08.2013. Questioning the same, this intra Court appeal has been filed.

3.Heard the learned counsel for the appellant and the learned Additional Government Pleader appearing for the respondents 2 to 4.

4.The learned counsel for the appellant reiterated the grounds set out in the appeal memorandum. The learned counsel for the appellant contended that in order to establish the motivated and malafide nature of the action initiated against the writ petitioner, it is absolutely necessary that the documents sought for are supplied.

5.We are not able to accept the stand of the appellant that unless the documents sought for are furnished, he would not take part in the enquiry. As rightly pointed out by the learned Judge, the charge against the appellant is very specific in nature. Seven girl students have alleged that the appellant sexually harassed them. This being the nature of charge, the appellant will have to necessarily face it fair and square. He cannot protract the enquiry proceedings on the ground that documents sought for by him have not been made available. It is certainly



open to the writ petitioner to seek supply of those documents that are relevant to the charge. The matter is still pending only at the enquiry stage. It is always open to the appellant herein to raise the contention that he was not given fair opportunity to establish his innocence. He cannot however preempt the enquiry or get the enquiry postponed indefinitely by raising such technical issue.

6.We leave open all the contentions available to the appellant. Considering the nature and gravity of the charges, it is only appropriate that the enquiry is expeditiously concluded. The appellant is entitled to cross-examine the witnesses and establish that the complaints were induced to level false allegations against him.

7.We do not find any reason to interfere with the order of dismissal passed by the learned Single Judge. This writ appeal is therefore dismissed with a direction to the fourth respondent to expedite the enquiry initiated against the writ petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Regional Senior Manager,
Sports Development Authority of Tamil Nadu,
Tirunelveli Region,
Tirunelveli - 2.

2.The District Sports Officer,
Sports Development Authority of Tamil Nadu,
Anna Stadium, Nagercoil,
Kanyakumari District.

3.The Enquiry Officer cum Deputy General Manager,
No.116A, E.V.R.Periyar High Road,
Nehru Park, Chennai -84.
+1cc to M/S.J.ANANDHAVALLI, Advocate SR.No.72056
Arul/skm
MAS/KP/SAR2:08.09.2017:3P-5C

**W.A. [MD] .No.999 of 2013
and**

**M.P. (MD) No.1 of 2013
10.08.2017**