

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.10846 of 2018 &
WMP No.12791 of 2018

Mrs.E.Usha

...Petitioner

Vs

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai- 600 006.
- 2.The District Educational Officer,
Chennai (Central),
Saidapet,
Chennai-600 015.
- 3.The Correspondent,
M/s.Kesari Higher Secondary School,
Old No.9, New No.17/1,
Royapettah High Road III Street,
Mylapore,
Chennai-600 004.
- 4.Mrs.Rama Gowri,
Head Mistress In-Charge,
M/s.Kesari Higher Secondary School,
Old No.9, New No.17/1,
Royapettah High Road III Street,
Mylapore,
Chennai-600 004.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the third respondent dated 23.04.2018 and quash the same on the ground of lack of jurisdiction and tainted by the malafide.

For Petitioner :	Mr.S.Dakshayani Reddy
For RR1 & 2 :	Mrs.P.Kavitha, G.A.
For R3 :	Mr.K.S.V.Prasad
For R4 :	Mr.Thamizharasi

ORDER

Heard M/s.Dakshayani Reddy, learned counsel for the petitioner and Mrs.P.Kavitha, the learned Government Advocate for the respondents 1 & 2 and Mr.K.S.V.Prasad, appeared in person for the third respondent and M/s.S.Thamizharasi, learned counsel for the fourth respondent.

2.It appears that the petitioner had filed this writ petition challenging the suspension order dated 23.04.2018 and further proceedings. Pursuant to the same, this Court while issuing notice, granted interim stay on the same. But, by misconstruing the aforesaid order, the petitioner was not allowed to join in duty. Therefore, the counsel for the petitioner submits that the respondent no.3 is liable to be proceeded for contempt.

3.However, the respondent no.3 submits that since by the time the order was passed, the petitioner being already suspended, she was not allowed to join duty, otherwise also the writ petition being not maintainable, the petitioner has no case. However, he submits that when this Court has stayed the matter, they would allow her to join duty immediately but conclude the enquiry against her within two weeks.

4.It appears though this Court had stayed the suspension. In such premises, the respondent no.3 ought to have allowed the petitioner to join duty pending disposal of the writ petition on merit. But, the respondent no.3 mis-construing the order of this Court did not allow her to join in duty, it appears to be violation of this Court's order. But now being agreed to allow her to join duty, it can be very well said that the mistake of non compliance was a bonafide one.

5. After hearing the learned counsel for the parties and also going into the materials on record, this Court is of the view that, since non-compliance of this Court's order is a bonafide one and as such, I am not agreeable with the submission advanced by the learned counsel for the petitioner that this Court's order has been violated deliberately by the third respondent. However, the third respondent shall allow the petitioner to join in duty immediately, since the third respondent has agreed to allow the petitioner to join in duty and to take action as permissible only on conducting an enquiry, giving a reasonable opportunity to the petitioner to defend her in such an enquiry, this Court keeping the question of maintainability of such writ petition open dispose of this writ petition with a direction to the third respondent to withdraw the letter of suspension immediately and not to proceed

against the petitioner without conducting appropriate enquiry giving her a reasonable opportunity of hearing. However, it is further observed that if any such enquiry conducted, the same shall be disposed of, as expeditiously as possible but adhering to the aforesaid principles of natural justice.

6. With the aforesaid order, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dn
To

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai- 600 006.
- 2.The District Educational Officer,
Chennai(Central),
Saidapet,
Chennai-600 015.
- 3.The Correspondent,
M/s.Kesari Higher Secondary School,
Old No.9, New No.17/1,
Royapettah High Road III Street,
Mylapore, Chennai-600 004.
- 4.Mrs.Rama Gowri,
Head Mistress In-Charge,
M/s.Kesari Higher Secondary School,
Old No.9, New No.17/1,
Royapettah High Road III Street,
Mylapore, Chennai-600 004.

+1cc to Mrs.Dakshayani Reddy, Advocate Sr.36440
+1cc to the Government Pleader sr.37524
+1cc to Mrs.S.Thamizharasi, Advocate Sr.36444

W.P.No.10846 of 2018

srg 28/06/2018