

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.12746 of 2017

in

W.M.P.No.13595 of 2017

P.M.Barani

.. Petitioner

Vs

1. The Joint Director of School Education,  
(Higher Secondary),  
College Road,  
Chennai 600 006.

2. Chief Education Officer,  
Cuddalore District.

3. District Educational Officer ,  
Cuddalore District.

4. The Secretary,  
Thiruvallur Higher Secondary School,  
Orathur,  
Cuddalore District 608 201.

5.S.Ponmudi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fourth respondent herein in proceedings Na.Ka.No.1/17 dated 23.03.2017 and 17.04.2017 and quash the same.

For Petitioner : Mr.G.Bala for  
Mr.G.Bala and Daisy

For Respondents : Mr.K.Karthikeyan  
Government Advocate  
for R1, R2 and R3

Mr.R.D.Ashok Kumar  
for R4 and R5

## ORDER

The show cause notice issued by the 4<sup>th</sup> respondent/the Secretary, Thiruvallur Higher Secondary School, Orathur, Cuddalore District, is under challenge in this Writ petition.

2. The learned counsel appearing for the Writ Petitioner states that the show cause notice was issued with an ulterior motive and without any application of mind to the facts and circumstances. Further, it is contended that there is no material evidences to proceed with an enquiry against the Writ petitioner. In view of the fact that evidences are not available in respect of the allegations set out in the show cause notice, the respondents shall not be allowed to continue with the proceedings.

3. The learned counsel appearing on behalf of the 4<sup>th</sup> respondent/ Thiruvallur Higher Secondary School, Orathur, Cuddalore District opposed the contentions by stating that the allegations against the Writ petitioner amounts to misconduct and therefore, the petitioner has to submit his explanations/objections to defend his case and thereby adequate opportunities has been provided during the course of the enquiry. In spite of doing so, the petitioner has chosen to file this present Writ petition at certain flimsy grounds.

4. The learned Government Advocate appearing on behalf of the respondents 1 to 3 also opposed the contentions of the Writ petitioner by stating that the Secretary of the School is empowered to issue such a show cause notice in respect of the allegations set out in the impugned notice. It is left open to the Writ petitioner to submit his explanations/objections and defend the case in the manner known to law. In this view, this Writ petition is liable to be rejected.

5. This Court is of an opinion that the allegations set out in the show cause notice are in relation to certain incidents that took place and it is for the Writ petitioner to defend all such allegations before the enquiry officer. No Writ petition can be entertained against the show cause notice in a routine manner. Judicial review against the show cause notice is certainly limited. The Writ petition against the show cause notice shall be entertained only if the same is issued by an incompetent authority having no jurisdiction or allegation of malafides are raised or if the same is in violation of the statutory rules. Even in case of raising an allegation of malafides, the authority against whom such an allegation is raised, to be impleaded as a party respondent in the proceedings.

6. In the absence of any one of the legal grounds, no Writ petition can be entertained against the show cause notice.

Though the Writ petition has been raised on certain allegations against the 4<sup>th</sup> respondent/Secretary, Thiruvallur Higher Secondary School, the allegations are not substantiated by the Writ petitioner. Per contra, general allegations are made by stating that the show cause notice has been issued with an ulterior motive and such a general allegation set out in the Writ petition can never be considered.

7. To establish malafides, the petitioner has to produce necessary documents and materials. In the absence of any incriminating materials, this Court cannot come to a conclusion that the show cause notice has been issued on malafide intention.

8. May that it be, this Court is of an opinion that the Writ petitioner has to submit his explanations/objections by defending his case by participating in the departmental Disciplinary proceedings. It is made clear that the enquiry proceedings should be concluded within a reasonable period of time.

9. In this view of the matter, the Writ petitioner is at liberty to submit his explanations/objections and especially, his evidences before the enquiry proceedings, to be conducted by the competent authority. Thus the Writ petition is devoid of merits and stands dismissed. No costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-  
Assistant Registrar(CS\_IV)

// True Copy //

Sub Assistant Registrar

ay/mbi

To

1. The Joint Director of School Education,  
(Higher Secondary),  
College Road,  
Chennai 600 006.

2. Chief Education Officer,  
Cuddalore District.

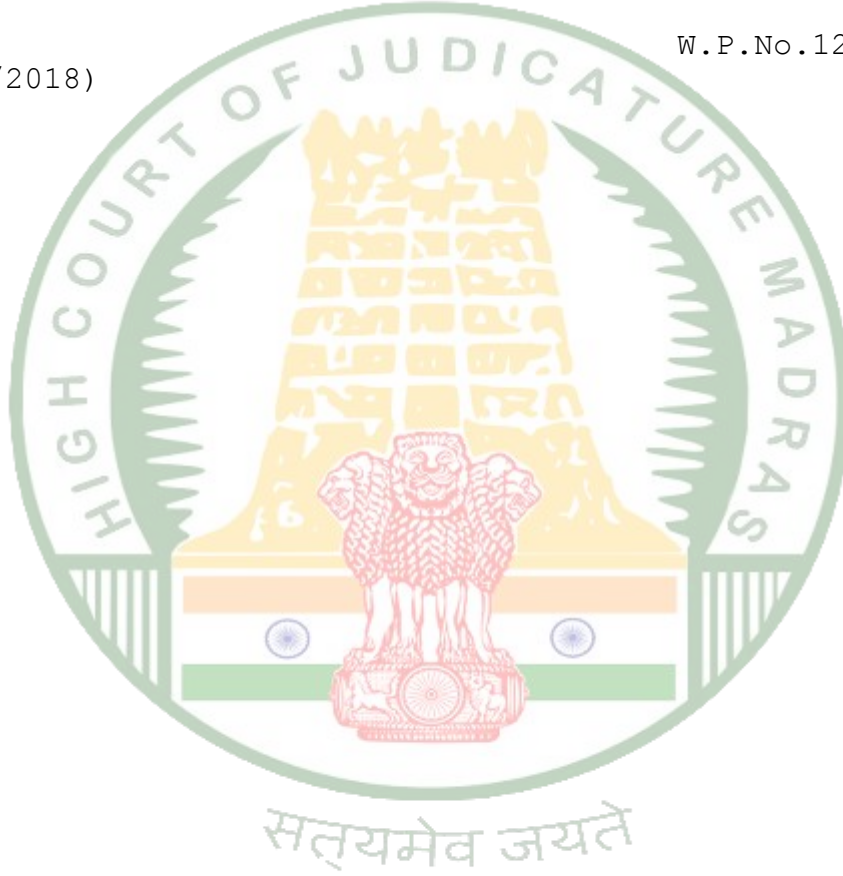
3. District Educational Officer ,  
Cuddalore District.

+lcc to Mr.S.N.Ravichandran, Advocate SR.No.61888

+lcc to Mr.G.Bala&Daisy, Advocate SR.No.61887

RMP (25/09/2018)

W.P.No.12746 of 2017



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