

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32954 of 2017

Dr.V.Joseph

.. Petitioner

-vs-

1. The Regional Joint Director of College Education
Office of the Regional Joint Director
of Collegiate Education
Institute of Advanced Study in Education Campus
Saidapet
Chennai 600 015
 2. The Director of Collegiate Education
9th Floor, EVK Sampath Building
College Road
Chennai 600 006
 3. The State of Tamil Nadu
rep.by its Secretary
Education Department
Fort St.George
Chennai 600 009
 4. Rev.Fr.Provincial
Madurai Jesuit Province
St.Mary's Residence, P.Box No.6
Dindigul 624 001
 5. The Secretary and Correspondent
Loyola College
Nungambakkam
Chennai 600 034
- .. Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, calling for the
records of order of suspension dated 07.12.2017 passed by the
fifth respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Chandrasekaran
for Mr.A.Aruldoss

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 3
Mr.P.Godson Swaminath
for M/s Issac Chambers
for R4 & 5

ORDER

Dr.V.Joseph, who is serving as Associate Professor (Physics) in the fifth respondent-Loyola College, Chennai, has been placed under suspension by order dated 7.12.2017 issued by the Secretary & Correspondent of the said college, pending disciplinary proceedings. Since the domestic enquiry is also under progress against the petitioner, after issuance of the charge memo dated 27.9.2017, for the incident that took place on 3.10.2017, finding that the enquiry might take a long time, challenging the correctness of the suspension order, this writ petition has been filed.

2. Learned counsel for the petitioner, assailing the order of suspension, contended that the fifth respondent has exceeded his power while placing the petitioner under suspension. When a complaint was given by one Dr.J.Justin Rayappa making some allegations against the petitioner, without even taking little care to verify whether the allegations made in the complaint are true or not, the fifth respondent, acting in an arbitrary manner, immediately placed the petitioner under suspension resulting in huge prejudice and humiliation to the petitioner. Now the enquiry initiated pursuant to the false complaint given by Dr.J.Merline Shyla has been subsequently adjourned. In the meanwhile, without even completing the enquiry on the said complaint, going in collusion with Dr.J.Merline Shyla and Dr.J.Justin Rayappa, in an effort to punish the petitioner, the fifth respondent has passed the impugned order of suspension. The petitioner is prepared to face the enquiry and would prove that the allegation made against him is not only an after-thought, but a cooked up story. Again attacking the statement given by Dr.J.Justin Rayappa, the learned counsel for the petitioner submitted that the foundation on which the petitioner was placed under suspension also will not stand to the scrutiny of the enquiry officer, since Dr.J.Justin Rayappa himself has deposed that he has not received any threatening call on phone on behalf of the delinquent Dr.V.Joseph. In view of the above statement made by Dr.J.Justin Rayappa, the impugned order of suspension should not have been passed hurriedly. Assailing the approach adopted by the fifth respondent to place the petitioner under suspension, the learned counsel for the petitioner submitted that when the incident is said to have taken place on 3.10.2017, the complaint given only after 45 days clearly shows

that it is a mere after-thought. Again without even examining whether on the belated complaint made after 45 days from the date of the alleged incident the petitioner can be placed under suspension, the fifth respondent has wrongly rushed to a premature conclusion. For all these reasons, he prayed for interference with the impugned order.

3. Opposing the above prayer, the learned counsel for the respondents 4 & 5 submitted that after the alleged incident took place on 3.10.2017, a memo was also issued to the petitioner on the next day i.e., 4.10.2017, pending the charge memo issued earlier on 27.9.2017. Now in view of the pendency of the enquiry, the petitioner has been rightly placed under suspension on 7.12.2017. Presently the enquiry is also proceeding in the manner known to law. Therefore, no interference is called for with the impugned suspension order. Again referring to the deposition made by Dr.J.Justin Rayappa, the learned counsel submitted that Dr.J.Justin Rayappa has clearly mentioned that on 17.4.2017 the delinquent Dr.V.Joseph along with Mrs.Mercina came to his house to talk about the matter. During his presence, the delinquent Dr.V.Joseph informed Dr.J.Justin Rayappa that if Dr.Merline Shyla takes up the matter to higher-ups, he would paste highly defamatory posters against her. That also means a threat, he pleaded.

4. These are all matters to be gone into by the enquiry officer who is now seized of the matter. Therefore, this Court refrains from delving into the issue. But this Court could see that the way in which the petitioner has been placed under suspension cannot be accepted. The reason being that when the incident took place on 3.10.2017, curiously, the complaint was given only after 45 days. Entertaining the 45 days old complaint alleging certain incidents, the petitioner is being hurriedly placed under suspension. One of the documents produced before this Court shows that Dr.J.Justin Rayappa himself has deposed that he has not received any threatening call on phone on behalf of Dr.V.Joseph. However, these are the issues to be gone into in the enquiry. Therefore, the impugned order of suspension is set aside and the respondents are directed to reinstate the petitioner in service. However, the parties are directed to cooperate with the enquiry for an expeditious disposal. With this direction, the writ petition stands allowed. Consequently, W.M.P.No.36345 of 2017 is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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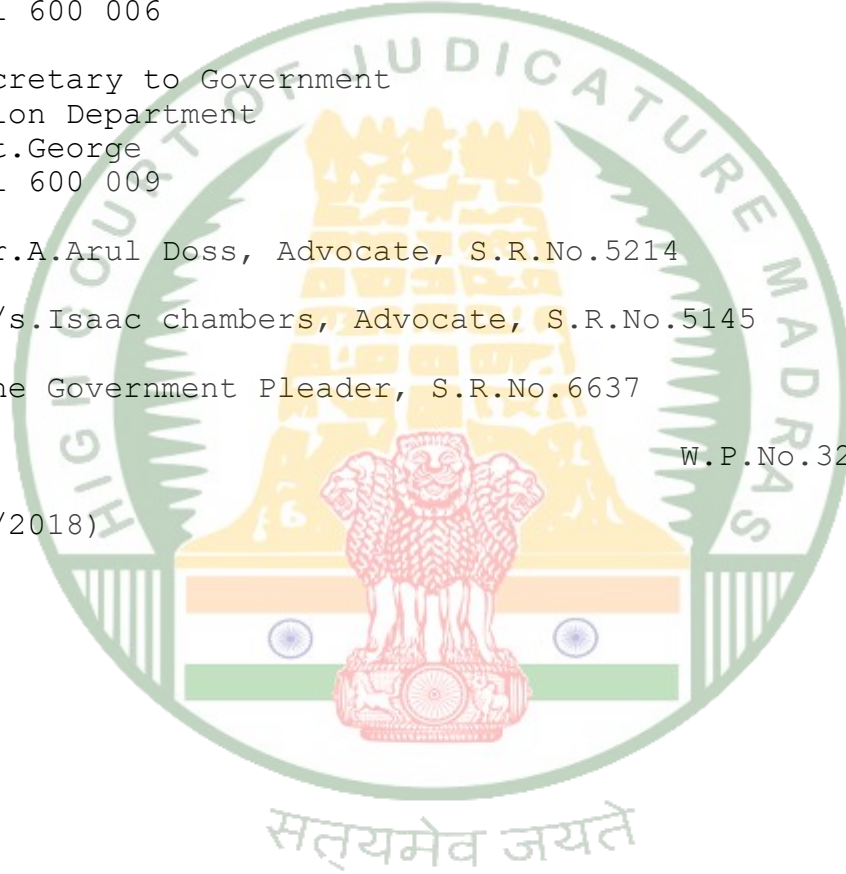
+1cc to Mr.A.Arul Doss, Advocate, S.R.No.5214

+1cc to M/s.Isaac chambers, Advocate, S.R.No.5145

+1cc to the Government Pleader, S.R.No.6637

W.P.No.32954 of 2017

MP (CO)
RRK(30/01/2018)



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