

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.312 of 2018
and
C.M.P.No.2528 of 2018

1. Rev. Fr. Provincial
Madurai Jesuit Province St. Marys Residence,
P.Box No.6, Dindigul 624 001.
 2. The Secretary & Correspondent,
Loyola College, Nungambakkam, Chennai 600 034.
- Appellants

Versus

1. Dr.V.Joseph
 2. The Regional Joint Director of
Collegiate Education,
Office of the Regional Joint Director
of Collegiate Education,
Institute of Advanced Study in Education Campus,
Saidapet, Chennai 600 05.
 3. The Director of Collegiate Education,
9th Floor, EVK Sampath Building,
College Road, Chennai 600 009.
 4. The State of Tamil Nadu,
rep. by its Secretary, Education Department,
Fort St. George, Chennai 600 009.
- Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.1.2018 passed in W.P.No.32954 of 2017 on the file of this court.

Prayer in WP.No.32954 of 2017:Writ petition praying to writ of certiorari, calling for the records of order of suspension dated 7.12.2017 passed by the fifth respondent and quash the same as arbitrary and illegal.

For appellant : Mr.P.Godson Swaminath for
Mr/s.Isaac Chambers
For R1 : Mr.P.Chandrasekaran
For RR2 to 4 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order passed by the learned Single Judge, the Management has come forward with the present writ appeal.

2. The first respondent herein filed the writ petition for the the relief of certiorari calling for the records of order of Suspension dated 7.12.2017 passed by the second appellant and quash the same as arbitrary and illegal.

3. The case of the Management-Appellant is that in respect of certain defamatory statement against one of the lady Professors, in an anonymous letter, an enquiry was ordered and when the enquiry was in progress which is headed by a Retired District Judge, one day prior to the date on which the enquiry was scheduled, the respondent herein alleged to have threatened one of the witnesses in the domestic enquiry, by name Dr.Justin Rayappa and that Professor has also given complaint and based upon that complaint, the first respondent herein was suspended. Challenging the said suspension order, the above writ petition was filed.

4. Heard the learned counsel appearing for the appellants and Mr.P.Chandrasekaran, learned counsel, who takes notice on behalf of the first respondent.

5. On consideration of the rival contentions, the learned Single Judge found that the complaint by the said Dr.Justin Rayappa was given after 45 days and entertaining the 45 days old complaint alleging certain incidents, the first respondent herein had been hurriedly placed under suspension and one of the documents produced before the court shows that Dr.J.Justin Rayappa himself had deposed that he had not received any threatening call on phone on behalf of Dr.V.Joseph, however, these are the issues to be gone into during the enquiry. In view of such finding, the learned Single Judge has set aside the order of suspension and directed for reinstatement of the first respondent herein and for expeditious completion of the enquiry. Hence, the appeal.

6. Mr.P.Godson Swaminath, learned counsel appearing for the appellants submitted that only based on the complaint given by the Professor by name Dr.J.Justin Rayappa on 28.11.2017 alleging that the first respondent herein had threatened him on 3.10.2017 not to depose against the first respondent during the domestic enquiry they have passed the suspension order.

7. Per contra the learned counsel appearing for the first respondent would contend that an anonymous letter was circulated wherein certain defamatory statements were made against a lady Assistant Professor and though it was an anonymous letter, the Management has attributed the same to the respondent, and suspended for nine months and when he resumed the work after

serving the suspension order, and that while domestic enquiry headed by a retired District Judge is in progress, now the Management once again to penalize the respondent with another suspension order on imaginary grounds. By drawing our attention to the alleged letter dated 28.11.2017, he would contend that it is a false and fabricated one. He would further contend that the alleged complaint is an imagination and concocted one since the notice of enquiry was served upon him only on 4.10.2017, but, the allegation is that on 3.10.2017, the first respondent had threatened the witness could not be believed. Further, he would submit that there was a delay of 45 days in preferring the so-called complaint and therefore, it is nothing but, ruse to harass the first respondent herein in the enquiry. He has also drawn our attention to the evidence given by the said complainant viz., Dr.J.Justin Rayappa on 23.12.2017 wherein the very same complainant has stated as under:-

"I have not received any threatening calls on phone on behalf of delinquent Dr.V.Joseph. Similarly I don't know the persons who threatened me personally on behalf of delinquent Dr.V.Joseph. There is not photo evidence for the personal threats. I don't know whether delinquent Dr.V.Joseph is a member of Loyola College Teaching Staff Association. I am not aware as to whether delinquent Dr.V.Joseph has given any letter to the association for the removal of his name from the membership."

8. Therefore, considering the submissions made on behalf of the first respondent herein and also taking note of the reasoning given by the learned Single Judge in the light of the contradictory statement given by the very same Dr.J.Justin Rayappa, and especially, when the matter is pending consideration before the Enquiry Officer, who being a Retired District Judge, we are not inclined to dwell upon the examination and cross-examination already made and to interfere into such aspects or to interfere with the order passed by the learned Single Judge.

9. In fine, the order passed by the learned Single Judge setting aside the order of suspension passed against the first respondent is concerned, we are of the considered view that the finding given by the learned Single Judge need not be interfered with as it does not suffer from any illegality or irregularity. Accordingly, it is confirmed. The writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary & Correspondent,
Loyola College, Nungambakkam,
Chennai 600 034.
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4. The Secretary,
The State of Tamil Nadu,
Education Department,
Fort St. George, Chennai 600 009.

+3cc to M/s.Isaac Chamber SR.No.11468
+1cc to Government Pleader Sr.No.12488
+1cc to Mr.P.Chandrasekar, Advocate Sr.No.11884

MG(CO)
sm:28.2.2018

W.A.No.312 of 2018

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