

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.3.2018

CORAM

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

W.A.No.64 of 2018
and
C.M.P.No.490 of 2018

The Secretary
Voorhees College Vellore
Vellore District 632 001.

Appellant/Petitioner

Versus

- 1 The State of Tamil Nadu
Rep. by its Secretary
Department of Higher Education
Fort St. George Chennai 600 009.
 - 2 The Director of Collegiate Education
College Road Chennai 600 006.
 - 3 The Joint Director of Collegiate Education
Vellore Region Vellore District.
 - 4 Dr. S. Ezhil Christadoss
Principal (in-charge) cum
Head of the Department of Chemistry
Voorhees College
Vellore Vellore District - 632 001.
- Respondents/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.12.2017 passed in W.P.No.42316 of 2016 on the file of this court.

W.P.No.42316 of 2016:

Petition filed under Article 226 of the constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings issued by the 2nd Respondent Director of Collegiate Education in R.C. No. 48166/G4/2016 dated 26.11.2016 and quash the same.

For appellant : Mr.R.Thiyagarajan, Senior Counsel
for M/s.Isaac Chambers

For RR1 to 3 : Mrs.V.Annalakshmi,
Government Advocate

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the writ petitioner challenging the order of dismissal passed by the learned Single Judge and thereby declining to interfere with the impugned proceedings of the second respondent which sought to relieve the appellant from the post of Secretary to the Voorheese College, Vellore District on certain allegations.

3. It appears that on certain serious allegations of corruption in the matter of recruitment of staff to the College, the second respondent herein viz., the Director of Collegiate Education issued the impugned proceedings directing the College Governing Board to remove him from the post of Secretary of the College, and the writ petition filed by the appellant came to be dismissed by the learned Single Judge. Such order is under challenge in the present writ appeal.

4. The main allegation is in respect of collection of some money/monetary consideration in the matter of appointment of some of the Assistant Professors. On such a complaint, the Director of Collegiate Education passed the impugned order. On considering the facts and circumstances and various rules and regulations, the learned Single Judge has dismissed the writ petition confirming the order passed by the Director of Collegiate Education.

5. When the matter was taken up for hearing, the learned Senior Counsel appearing for the appellant would submit that on mere filing of FIR it cannot be presumed that the law is set in motion and only if the charge sheet in a criminal prosecution is filed, it can be deemed that the law is set in motion and therefore, prior to that merely on filing of FIR, no view can be taken to pass any penal orders on account of some alleged misconduct. In support of his contention, he relied upon the decision of a Three Judges Bench of the Apex Court in UNION OF INDIA v. K.V.JANAKIRAMAN ((1991) 4 SCC 109.

6. On an analysis of the facts and circumstances of the case in the light of the decision cited supra, we are of the view that the order passed by the Director of Collegiate Education, which is a prohibitory one in nature, must have been passed considering the gravity of allegation levelled against the appellant. Of course, the law laid down by the Apex Court in

the decision cited supra is against such orders of penalty being passed. But, here is a case where it is not exactly in the form of penalty, but, it has to be considered as a preliminary step of penal proceedings initiated by the respondent-authority, on coming to know of some serious allegations. Each case depends upon its own facts and circumstances. There are umpteen instances which lead to take a firm or stringent decisions to set right the problems and to avoid unnecessary confrontation and consequences. As a matter of corrective measure, the respondent-authority could have passed the impugned orders, but, that order is a bar against the appellant-Secretary from doing any administrative work and even there are instances where at the prima facie stage of disciplinary proceedings, the persons against whom such allegations are levelled, can be kept under suspension as a preliminary step. Therefore, the orders passed by the respondent-authority preventing the appellant from doing any administrative work cannot be said to be either erroneous or illegal in the fact situation.

7. However, since it is represented that the tenure of the appellant is going to end in July 2018, hardly in another three months, we are of the view that he shall continue in the post of Secretary till his retirement, but, he shall not deal with the matters of financial consequences. With such modification in the order passed by the learned Single Judge, we dispose of the writ appeal. No costs. The connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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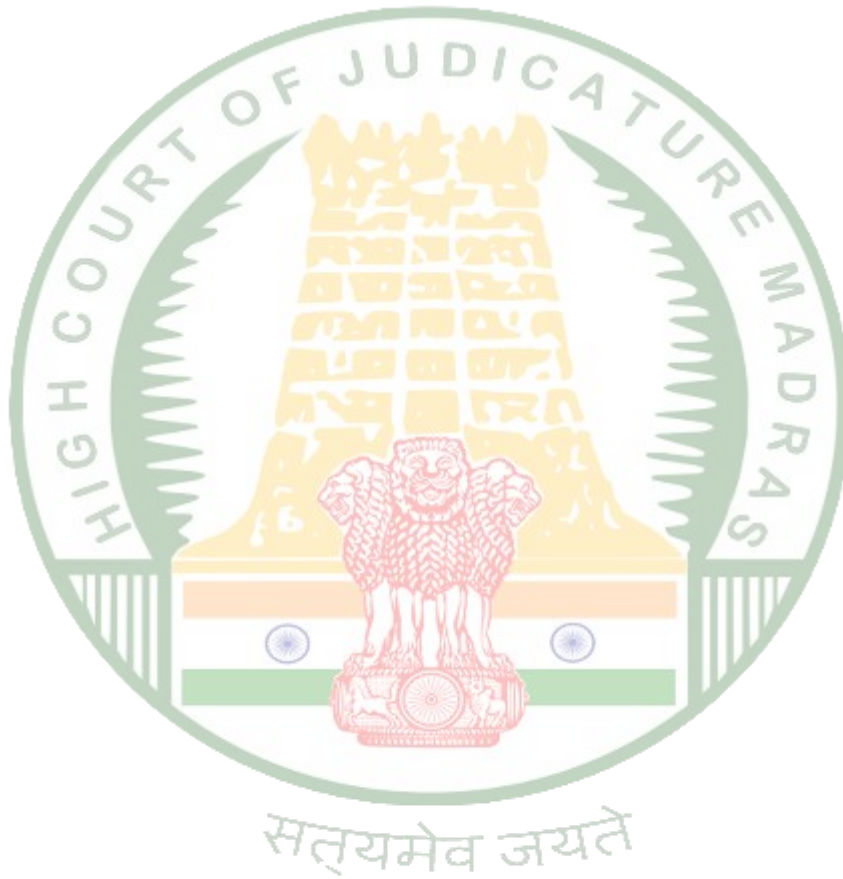
To:

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Vellore Region Vellore District.

+1 CC to Govt. Pleader sr 17795.
+1 CC to Ms. Isaac Chamber, Sr 17456

W.A.No.64 of 2018

SJ(CO)
SP(15/03/2018)



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