



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.01.2018
CORAM:
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.673 of 2018
and
W.M.P. (MD) .No.698 and 699 of 2018

AL.Vijayakumar

.. Petitioner

Vs.

1.The Secretary,
Ramanathan Chettiar Higher Secondary School,
Nachandupatti and Post,
Thirumayam Talum.
Pudukkottai District.

2.M.Jerin Mathew, .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the order passed by the second respondent dated 23.12.2017, quash the same and further direct the second respondent to permit the petitioner to engage a lawyer in the domestic enquiry proceedings.

For petitioner : Mr.K.Baalasundharam

O R D E R

Heard Mr.K.Baalasundharam, learned Counsel appearing for the petitioner.

2. The writ petitioner is working as a teacher in the first respondent School. The writ petitioner was issued with a charge memo. Domestic enquiry is being conducted. The second respondent, who is a practising lawyer was appointed as a enquiry officer to go into the charges framed against the writ petitioner. The writ petitioner wanted to engage a counsel to defend himself. The said request was denied. The enquiry officer passed the impugned order dated 23.12.2017, to that effect and the same is under challenge in this writ petition.



3. The learned counsel appearing for the writ petitioner fairly admitted that the disciplinary authority is being represented by a Junior Assistant of the School. Thus, the School is not represented by a legal practitioner in the domestic enquiry proceedings. In other words the writ petitioner is fitted against the Junior Assistant working in the same School and not against a legal practitioner. The further contention of the learned counsel for the writ petitioner is that the Hon'ble Supreme Court in the decision reported in (2015) 5 SCC 549 (*Ramesh Chandra v. Delhi University and others*) had held that if any person who is or was a legal practitioner is appointed as an enquiry officer in an enquiry initiated against an employee, the denial of assistance of a legal practitioner to the charged employee would be unfair.

4. The challenge in the said petition was to the show cause issued by the University. In the present case the challenge is not to any proceedings initiated by the disciplinary authority. An order passed by the enquiry officer in a domestic enquiry is under challenge. That apart in the aforesaid decision of the Hon'ble Supreme Court, the facts are completely different. In the said case not only the enquiry officer was a retired Hon'ble Judge of the High Court, but the presenting officer was also a legal practitioner. In the present case the presenting officer is not a legal practitioner. Thus the said decision relied on by the learned Counsel appearing for the writ petitioner is distinguishable on facts. This Court holds that the writ petition is not maintainable. Therefore, this Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assitant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.K.Baalasundharam, Advocate, SR.No.41794

kmi

RL/2C/2P/KK/SAR1/7/2/2018

ORDER MADE IN
W.P. (MD) No.673 of 2018
11.01.2018