



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)No.875 of 2017

and

C.M.P.(MD).No.5852 and 8024 of 2017

1. The Correspondent,
Eka Ratchagar Sabai Middle School,
Mukkuperi, Alwar Thirunagari,
Tuticorin.
2. S.Maduram
Correspondent,
Eka Ratchagar Sabai Middle School,
Mukkuperi, Alwar Thirunagari,
Tuticorin. ... Appellants/Respondents 3&4

Vs.

1. A.Santhi
Head Mistress,
Eka Ratchagar Sabai Middle School,
Mukkuperi, Alwar Thirunagari,
Tuticorin. ... 1st Respondent/Petitioner
2. The Chief Educational Officer,
Tuticorin District,
Tuticorin.
3. The District Elementary Educational Officer,
Tuticorin District,
Tuticorin. ... Respondents 2& 3/Respondents 1&2
4. R.S.P.Masak Ponselkar,
Enquiry Officer,
Eka Ratchagar Sabai Middle School,
Mukkuperi, Alwar Thirunagari,
Tuticorin.
5. The Additional Elementary Educational Officer,
Alwar Union at Thenthiruparai,
Tiruchendur Taluk, Tuticorin District. ... Respondents 4&5/Respondents 5&6



Prayer: Writ Appeal is filed under Clause 15 of Letter Patent, against the order passed by this Court, dated 25.05.2017 in W.M.P. (MD)No.7589 of 2017 in W.P.(MD)No.9906 of 2017.

Prayer in WMP(MD)No.7589/ 2017 :

To stay all further proceedings pursuant to the impugned order letter No.4/2017 dated 19.05.2017 passed by the 3rd respondent.

Prayer in WP(MD)No.9906/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorari calling for the records relating to the impugned order letter No.1/2017 dated 20.03.2017 passed by the 3rd respondent.

For Appellants	:	Mr.T.A.Ebenezer
For R2, 3 and 5	:	Mr.D.Muruganantham Additional Government Pleader
For R1	:	Mr.J.Ashok

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J.)

Heard Mr.T.A.Ebenezer, learned counsel for the appellants, Mr.D.Muruganantham, learned Additional Government Pleader for the respondents 2, 3, 5 and Mr.J.Ashok, learned counsel for the first respondent / writ petitioner.

2. This appeal is against an interim order granted in W.M.P. (MD)No.7589 of 2017 in W.P.(MD)No.9906 of 2017, which was filed by the first respondent herein, challenging the charge memo dated 20.03.2017, issued to her. The Writ Court, by the impugned order, granted an order of interim stay. The Management preferred this appeal and the Division Bench, while entertaining the appeal, has passed the following interim order, dated 04.07.2017:

"The first respondent herein filed Writ Petition in W.P.(MD).No.9906 of 2017, challenging the charge memo issued by the first appellant herein. The learned Single Judge entertained the Writ Petition and granted stay of the operation of the charge memo. The said order is under challenge in this Writ Appeal.

2. The affidavit filed in support of the intra-Court appeal indicates that several charges were framed against the first respondent. The learned Single Judge, without indicating the prima facie case or balance of convenience, granted an order of interim stay of the charge memo. We are prima facie of the view that in a matter like this, the proper approach is to dispose of the Writ Petition at the



earliest point of time.

3. We, therefore, issue notice to the first respondent, returnable by 25.07.2017. Private notice is also permitted. Though we permit the appellants to proceed with the enquiry, by granting stay of the impugned order, in view of the appointment made by them by appointing an Enquiry Officer, there shall be a direction not to pass final orders in the matter.

4. Registry is directed to post the Writ Appeal on 25.07.2017."

3. In terms of the above order, the appellant Management was entitled to proceed with the departmental enquiry, but they were restrained from passing final orders in the matter.

4. It is submitted by the learned counsel appearing for the writ petitioner that she has now been suspended from Service. In any event, since the order of the Division Bench not only gives liberty to the Management to proceed with the departmental enquiry, but also protected the interest of the writ petitioner by restraining the Management not to pass final orders in the matter.

5. In our considered view, the interim order can be very well made as a final order in this appeal and leaving it open to the first respondent / writ petitioner to argue the writ petition on merits.

6. In the light of the above, the Writ Appeal stands disposed of by permitting the appellant Management to proceed with the departmental enquiry, pursuant to the charge memo, dated 20.03.2017 and shall not pass final orders and await the outcome of W.P.(MD) No.9906 of 2017. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Tuticorin District,
Tuticorin.



2. The District Elementary Educational Officer,
Tuticorin District,
Tuticorin.

3. R.S.P.Masak Ponsekar,
Enquiry Officer,
Eka Ratchagar Sabai Middle School,
Mukkuperi, Alwar Thirunagari,
Tuticorin.

4. The Additional Elementary Educational Officer,
Alwar Union at Thenthiruparai,
Tiruchendur Taluk, Tuticorin District.

+ 1 CC TO Mr.J.ASHOK, ADVOCATE IN SR No. 49140

+ 1 CC TO Mr.T.A.EBENEZER, ADVOCATE IN SR No. 49179

LS/AKV

TE/KKR/SAR-3 : 06/03/2018 : 4P/7C

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C.M.P.(MD).No.5852 and 8024 of 2017
16.02.2018