



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.15572 of 2018 and
W.M.P.(MD)Nos.13987 and 15503 of 2018

K.Velmanirajan

... Petitioner

Vs.

1.The Directorate of Technical Education,
53, Sardar Patel Road, Guindy, Chennai.

2.The Southern Regional Officer,
The All India Council for Technical Education,
Southern Regional Office,
Shastri Bavan, Nungambakkam,
Chennai 600 006.

3.The President,
VSVN Polytechnic College Managing Board,
Virudhunagar.

4.Shanmugamoorthy
Chairman, Governing Council,
VSVN Polytechnic College Managing Board,
Virudhunagar.

5.Thangarajan
Member, Governing Council,
VSVN Polytechnic College Managing Board,
Virudhunagar.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the notice issued by the fifth respondent dated 13.07.2018 and quash the same as illegal and consequently, direct the respondents 1, 3 and 4 to allow the petitioner to continue in service.

For Petitioner	: M/s.T.K.Akalya
For Respondents	: Mr.S.Dhayalan, G.A.for R1
	Mr.N.Dilip Kumar for R2
	No appearance for R3
	Mr.K.V.Subramanian, S.C.for
	Mr.P.Thirumagilmaran for R5
	Mr.G.Mohankumar for R4



O R D E R

The petitioner has come forward with the present Writ petition to quash the impugned notice issued by the fifth respondent dated 13.07.2018 and consequently, direct the respondents 1, 3 and 4 to allow the petitioner to continue in service.

2.The case of the petitioner is that he has been appointed as Principal on temporary basis on 19.07.2016 in the respondents / College after getting approval from the first respondent. The respondents/College is an aided institution. Suddenly, the respondent/College has taken a decision to discharge the petitioner from service. Without issuing prior notice to the members of the Governing Council, a decision was taken by the Governing Council in the Governing Council meeting and hence, there is no sufficient quorum.

3.According to the petitioner, in terms of Article 13 of the Grant in Aid Code, the council alone is empowered to remove any staff from service and the respondent did not follow the due procedure as contemplated therein, the order impugned is liable to be interfered with. The petitioner also drew the attention of this Court to the conditions in Grant in Aid Code and also the other provisions.

4.This Court by an order dated 18.07.2018 granted an interim stay of the operation of the order and permitted the petitioner to continue in the respondents College.

5.The learned Senior Counsel appearing for respondents / College would submit that the petitioner has not given any reply to the show cause notice and as there was no reply from the petitioner, the order of discharge from service has been passed and hence, it is incorrect to state that the management has taken a wrong decision. He further submitted that the Governing Council has issued the show cause notice which is impugned in this Writ petition and it could be seen a member has signed in the show cause notice on behalf of the Governing Council. He also submitted that the Writ petition itself is not maintainable as it is against the show cause notice and that the Grant in Aid Code does not have any statutory force. Even assuming that the respondents / College have to follow the Grant in Aid Code in its letter and spirit and in order to form quorum, not less than 5 members have to be present in the governing council. The contention that it is only a management meeting and the same should not be construed as the Governing Council meeting, may not be correct. If accepting the contention of the petitioner as discharging him from service is illegal, then he will have to show that the order is illegal. He submitted that the order is illegal and therefore, the petitioner cannot harp upon that the show notice itself is illegal as the show cause notice has already merged with the order of discharge from service. He



further submitted that it is a private aided institution and that the Tamil Nadu Private Colleges Regulations Act does not apply to the respondents / College.

6. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the first respondent, learned counsel for the fifth respondent and also the learned counsel appearing for the fourth respondent.

7. It is not in dispute that the petitioner has been appointed on temporary basis for a period of two years on 19.07.2016. The show memo has been issued by the Governing Council, which has culminated into an order of discharge from service on 13.07.2018. Even though the various provisions of the Grant in Aid Code have been drawn to the attention of this Court, this Court is restrained from rendering any finding to that effect and that as it may go against the petitioner or the respondents / College. Since the show cause notice has culminated into an order of discharge from service, it is needless to mention that if the petitioner is aggrieved by the said order, it is open to him to challenge the same in accordance with law. All the factual and legal averments available to the petitioner and the respondents / College can be agitated before the appropriate forum in case the order of discharge is challenged. If any observation touching upon the merits of this matter, it is only for the purpose of disposal of this Writ petition alone and hence, it will not prevent the parties to put forth their factual and legal contention in the further litigation, if the petitioner challenges the discharge notice. Accordingly, this Writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Directorate of Technical Education,
53, Saradar Patel Road,
Guindy, Chennai.
2. The Southern Regional Officer,
The All India Council for Technical Education,
Southern Regional Office,
Shastri Bavan, Nungambakkam,
Chennai 600 006.

- + 1 CC TO Mr.S.THAMIZHARASAN, ADVOCATE IN SR No. 85973
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85657
- + 1 CC TO Mr.N.DILIPKUMAR, ADVOCATE IN SR No. 85794
- + 1 CC TO Mr.THIRUMAHILMARAN, ADVOCATE IN SR No. 85547

NBJ

TE/SKN/SAR-4 : 05/12/2018 : 3P/7C

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W.P. (MD) No.15572 of 2018
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