

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.39581 of 2018

ORDER:

This writ petition is filed seeking a writ of mandamus to declare the action of the 4th respondent herein viz, the District Educational Officer in issuing the impugned proceedings dated Nil-08-2018 suspending the petitioner from service as illegal, arbitrary, against the Service Rules and against the principles of natural justice and sought a consequential direction to set aside the said proceedings.

Heard Sri Challa Srinivasa Reddy, learned counsel for the petitioner and learned Government Pleader for Services-I.

It has been contended by the petitioner that she was initially appointed as a Secondary Grade Teacher and got promoted from time to time. While the petitioner was working as a Gazetted Head Master (GHM), Grade-II, the District Educational Officer-4th respondent herein issued the impugned proceedings dated Nil-08-2018 placing her under suspension with immediate effect, pending ratification from the Regional Joint Director of School Education, on the ground that she has misappropriated certain Government funds during May/June, 2018 and a Criminal Case in Crime No.271 of 2018 was registered against her on 08.08.2018 in this regard. It has been further contended that the 4th respondent is not the competent authority to place the petitioner under suspension.

Learned counsel for the petitioner has brought to the notice of this Court the Telangana Civil Services (Classification, Control and Appeal) Rules, 1991 (for short "the Rules"). Rule 13 of the said Rules prescribes the authorities competent to suspend the members of the State Services and under Clause 17(a) thereof, the competent authority to place other members of State Services holding initial

Gazetted post under suspension is prescribed as the regional authority, or where no regional authority exists, it is the Head of the Department who is the competent authority to suspend such officers. Learned counsel contends that in the instant case, the competent authority to suspend the Gazetted Head Masters is the Regional Joint Director of School Education or the next higher authority i.e Head of the Department but not the District Educational Officer. He further contends that a similar issue fell for consideration before this Court in W.P.No.12074 of 2018 and this Hon'ble Court was pleased to allow the said writ petition vide orders dated 24.04.2018 and set aside the order of suspension passed by the District Educational Officer.

Learned Government Pleader for Services-III contends that the District Educational Officer has placed the petitioner under suspension pending ratification from the higher authorities and if the said action taken by the District Educational Officer is ratified by the higher authorities, then placing the petitioner under suspension would be as per the Rules. He further contends that there are no merits in the writ petition and it is liable to be dismissed.

This Court, having considered the rival submissions made by the parties, is of the view that since a perusal of the Rules would clearly indicate that the District Educational Officer is not the competent authority, the impugned order of suspension is liable to be set aside as it is passed by the incompetent authority.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

02nd November, 2018
JSU

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Date: 02.11.2018

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