

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.17558 of 2012

K.Sasikala

.. Petitioner

Vs.

1.The State of Tamilnadu,
Rep. By its Secretary,
Education Department,
Fort St. George, Chennai 600 009.

2.The Director of School Education,
College Road,
Chennai 600 006.

3.The Joint Director,
National Services Scheme,
College Road, Chennai 600 006.

4.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

5.The District Educational Officer,
Thuckalay, Kanyakumari District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to Enquiry Officer, the 3rd respondent herein vide his proceedings Joint Director (National Services Scheme) Manthanam. 2/2010 dated 11.11.2010 and the consequential order passed by the 2nd respondent vide his proceedings No.Na.Ka.No.68236/W.1/E2/2009 dated 24.04.2012 and quash the same.

WEB COPY

For Petitioner : M/s.H.Mary Sowmi Rexi
for M/s.Isaac Chambers

For Respondents : Mr.P.Raja,
Government Advocate

O R D E R

This Writ Petition is filed to issue a Writ of Certiorari, calling for the records relating to Enquiry Officer, the 3rd respondent herein vide his proceedings Joint Director (National Services Scheme) Manthanam. 2/2010 dated 11.11.2010 and the consequential order passed by the 2nd respondent vide his proceedings No.Na.Ka.No.68236/W.1/E2/2009 dated 24.04.2012 and quash the same.

2.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

3.The learned counsel appearing for the petitioner contended that two charges were framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner has submitted her explanation denying the charges leveled against her. The respondents conducted Domestic Enquiry. The persons alleged to have given complaint against the petitioner were not examined and no opportunity was given to the petitioner to cross-examine the alleged complainant persons in the domestic enquiry. The Enquiry Officer did not furnish the documents relied on by the respondents to the petitioner. She was not even permitted to peruse the documents. The petitioner did not allow SFI, a political organization in which the complainant was an active member, to conduct the meeting in the school campus. In view of the same, some of the students and teachers who are the members of the said political organization have instigated the students and teachers to give complaint against the petitioner. No Domestic Enquiry was conducted against the petitioner and without considering the explanation submitted by the petitioner, the Enquiry Officer had held that the charges leveled against the petitioner were proved. The respondent failed to see that student Malar Priya who gave complaint had withdrawn the said complaint in the presence of her parents and witnesses. The punishment was imposed in violation of principles of natural justice and hence, the Writ Petition filed by the petitioner without exhausting the appeal remedy is maintainable.

4.The respondents filed counter affidavit. The learned Government Advocate appearing for the respondents contended that the petitioner committed misconduct inspite of G.O.No.12 Education (V2) Department dated 18.01.2007 issued by the Government. Not being satisfied with the explanation submitted by the petitioner, the Enquiry Officer considered the complaint given to the District Collector, Chief Enquiry Officer and publication in the daily newspaper and held that

the charges leveled against the petitioner were proved. The 2nd respondent taking lenient view, has imposed lesser punishment of stoppage of increment for one year with cumulative effect. The petitioner has approached this Court without exhausting the appeal remedy and prayed for dismissal of the Writ Petition.

5. From the materials on record, it is seen that no witness was examined in the Domestic Enquiry. The documents relied on by the Enquiry Officer were not marked and author of the said documents were not examined. The petitioner was not given any opportunity to cross-examine the said persons. The respondents have issued charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The Domestic Enquiry conducted by the respondents is not proper and they have not followed the principles of natural justice. The petitioner was also not given any opportunity to let in evidence to substantiate her defense that since she did not give permission to SFI, a political organization to conduct meeting inside the school campus, the students and teachers who are the members of the said political organization had given complaint against the petitioner at the instigation of the said organization.

6. Considering the materials on record in its entirety, I hold that the enquiry conducted by the 3rd respondent is not in accordance with rules and regulations and is conducted in violation of principles of natural justice and the charges leveled against the petitioner were not proved in accordance with law. In such circumstances, the contention of the learned counsel for the petitioner that due to violation of rules and regulation and principles of natural justice, the Writ Petition filed by the petitioner is maintainable without exhausting the appeal remedy is acceptable.

7. For the above reason, the Writ Petition is allowed as prayed for. No costs. सत्यमेव जयते

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

gsa
To

1. The Secretary,
The State of Tamilnadu,
Education Department,
Fort St. George, Chennai 600 009.

2.The Director of School Education,
College Road,
Chennai 600 006.

3.The Joint Director,
National Services Scheme,
College Road, Chennai 600 006.

4.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

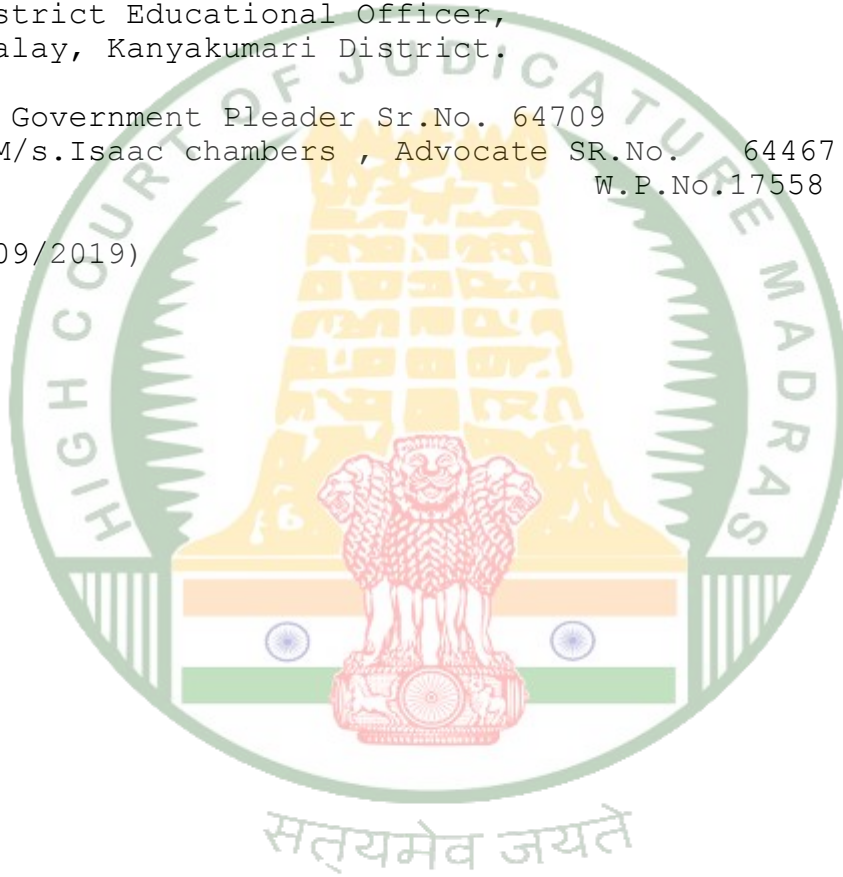
5.The District Educational Officer,
Thuckalay, Kanyakumari District.

+1 cc to Government Pleader Sr.No. 64709

+1cc to M/s.Isaac chambers , Advocate SR.No. 64467

W.P.No.17558 of 2012

A.SK(18/09/2019)



WEB COPY