

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4194 of 2019

and

W.M.P.Nos.4711 & 4713 of 2019

R.Periyasamy

..Petitioner

vs

1.The Director of School Education,
DPI Campus, College Road
Chennai - 600 006

2.The Chief Educational Officer
Erode District, Erode.

3.The District Educational Officer,
Erode, Erode District.

4.The Secretary,
Kasthuriba Gram High School,
Kasthuriba Gramam, Archalur Via,
Erode District.

5.S.N.Balasubramaniam
Kasthuriba Gram High School,
Kasthuriba Gramam, Archalur Via,
Erode District.

6.Enquiry Officer,
Room No.10, Law Chamber
Sambath Nagar, Main Road
Erode - 638 011

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the orders passed by the 6th respondent in Ref.No.05/2019 dated 17.01.2019 and the subsequent Notice issued by the 4th respondent in No.Nil dated 04.02.2019 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.A.Rajaperumal

Additional Government Pleader
for R1 to R3

O R D E R

The grievances of the writ petitioner is that opportunity as contemplated has not been provided to the writ petitioner

even to defend his case in accordance with law.

2.A charge memo was issued to the writ petitioner, setting out certain allegations against him, the writ petitioner denied the charges.

3.The learned counsel for the writ petitioner states that the documents sought for by the writ petitioner also had not been furnished. The enquiry officer is also not granting time to defend the case. Thus, he is afraid that he may not get fair opportunity of defending his case before the enquiry proceedings.

4.This Court is of the considered opinion that the delinquent officials must be provided with an opportunity to defend their case in accordance with law. The Principles of Natural Justice is also to be followed, the enquiry officer at the time of conducting of enquiry, must grant time to the delinquent officials to submit their defense statements to peruse all the documents and to produce their witnesses, if any, for the purpose of defending their case. The job of the enquiry officer is quasi-judicial in nature and therefore, they have to conduct the proceedings impartially and by providing reasonable opportunity to the delinquent officials to defend their case.

5.The procedures to be followed by the enquiry officer are that, on receipt of the files from the Management in respect of the charges against the delinquent officials, the enquiry officer shall fix a date for enquiry. Thereafter, the enquiry officer must grant permission to peruse all relevant files, which all are relied upon by the Management for the purpose of establishing the charges. If at all, the writ petitioner ask for any irrelevant documents, the same may be rejected by the enquiry officer as well as by the disciplinary authority. Therefore, it is made clear that the delinquent officials, should seek only the relevant documents, which all are relied upon by the Management for the purpose of establishing the charges against the delinquent officials.

6.In the present case on hand, the learned counsel for the writ petitioner states that the enquiry officer is an Advocate and therefore, the writ petitioner must be permitted to engage Lawyer for the purpose of defending his case. It is a settled principle that if the enquiry officer is a Law graduate, then the delinquent official is eligible to avail the services of a lawyer to defend his case. Accordingly, the petitioner may be granted with the permission to engage lawyer to defend his case before the enquiry officer. However, by engaging the lawyer, the writ petitioner cannot resort to seek unnecessary adjournments. Unnecessary adjournments must ensure that the lawyer appearing on behalf of the writ petitioner seeks unnecessary adjournments

and in the event of any unnecessary adjournments, an enquiry officer has got a right to deny such adjournments and proceed with the enquiry in the manner known to law. While granting permission to the writ petitioner to engage a lawyer, it is needless to state that the lawyer, who is engaged by the writ petitioner also must ensure that he acts responsibly and cooperate for the early disposal of the enquiry by the enquiry officer by following the procedures as contemplated.

7.The enquiry officer must provide opportunity to the delinquent to defend his case in the manner known to law. The delinquent officials may be provided to submit his documents to examine his witnesses and to defend his case by submitting his report and arguments or otherwise. Thus, proceedings cannot be denied to the delinquent, so also, the delinquent should cooperate for the early disposal of the enquiry by the enquiry officer. In the event of non-cooperation either by the lawyer or by the delinquent, the enquiry officer shall record the same in his proceedings itself.

8.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1.The Director of School Education,
DPI Campus, College Road
Chennai - 600 006

2.The Chief Educational Officer
Erode District, Erode.

3.The District Educational Officer,
Erode, Erode District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No. 13205
+1cc to the Government Pleader, S.R.No. 14096

W.P.No.4194 of 2019

GP(CO)
GN(11/03/2019)