

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-04-2019

CORAM

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

W.P.No.7801 of 2019

T.Jaiganesh

.. Petitioner

vs

- 1.The Principal Secretary,
Department of Higher Education,
Fort St. George,
Secretariat,
Chennai-600 009.
- 2.The Director of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai-600 006.
- 3.The Regional Joint Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
Government College of Education,
Saidapet,
Chennai-600 015.
- 4.The Principal,
The Government of Arts and Science College,
Perumbakkam,
Chennai-600 131.

5.Malaiyarasu

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to consider the petitioner's representation dated 28.12.2018.

For Petitioner : Mr.N.Ponraj

For Respondents-1to4 : Mr.V.Kathirvelu,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents 1 to 4 to consider the representation submitted by the writ petitioner on 28.12.2018.

2. The relief, as such, sought for in the present writ petition is misconceived. The writ petitioner cannot seek a direction to award punishment to the fifth respondent.

3. The grievance of the writ petitioner is that the representation submitted by him is kept pending without any action by the respondents 1 to 4.

4. The learned counsel for the writ petitioner states that the fifth respondent is also a mastermind behind the cheating case and he is an accused in the criminal case, which is pending before the Competent Criminal Court of Law. Thus, the fifth respondent employee was placed under suspension and a punishment is to be awarded under the Discipline and Appeal Rules.

5. This Court is able to realise the mental agony undergone by the family of the person, who was cheated. However, the process of law is to be followed even to convict a person or to punish a public servant. The Court cannot be a party to such sentiments raised by the aggrieved persons. The Court is bound to follow the due process of law, even to punish a public servant or to convict an employee.

6. Admittedly, the criminal case has been registered by the jurisdictional police and now the said criminal case is under trial. Thus, it is for the writ petitioner to establish the offence before the Competent Criminal Court of Law. As far as the case of cheating is concerned, it is in no way connected with the official duties and responsibilities of the fifth respondent. Thus, the competent authorities are bound to take a decision, whether initiation of departmental disciplinary proceedings at this point of time are required or not.

7. Unnecessarily, a public servant cannot be placed under suspension. Only in the event of availability of prima facie materials, an employee can be placed under suspension. If there is any allegation in relation to the official performance, then the departmental disciplinary proceedings are to be initiated without any undue delay as the present case on hand is unconnected with the departmental duties and responsibilities, the authorities competent have to take a decision whether to initiate departmental disciplinary proceedings at this point of time or initiate action based on

the final orders to be passed by the Criminal Court of Law in the criminal case.

8. If a public servant is convicted in a criminal case, undoubtedly, the competent authority is bound to institute departmental disciplinary proceedings. However, during the pendency of the criminal cause, the authorities have to apply their mind and take decision accordingly.

9. It is made clear that unnecessarily an employee need not be placed under suspension for an unspecified period without having any material on record to continue the departmental disciplinary proceedings. Only in the availability of materials with the Department, they are at liberty to institute departmental disciplinary proceedings and proceed with the same.

10. All these factors are to be ascertained. Contrarily, a direction as such is sought for by the writ petitioner, cannot be granted. The writ petition filed based on certain personal vengeance cannot be considered on the sentiments of the writ petitioner, who is approaching this Court. However, all those facts and circumstances are to be considered by the competent authorities while taking a decision for continuing the departmental disciplinary proceedings or keeping the departmental disciplinary proceedings in abeyance till the final disposal of the criminal case.

11. This being the principles to be followed, the relief, as such, sought for by the writ petitioner in the present writ petition cannot be granted and it is left open to the writ petitioner to approach the competent authorities in respect of the materials available with him as well as the status of the criminal case.

12. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(Insp.cell)

//True Copy//

Sub Assistant Registrar

svn

To

1.The Principal Secretary,
Department of Higher Education,
Fort St. George,
Secretariat,
Chennai-600 009.

2.The Director of Collegiate Education,
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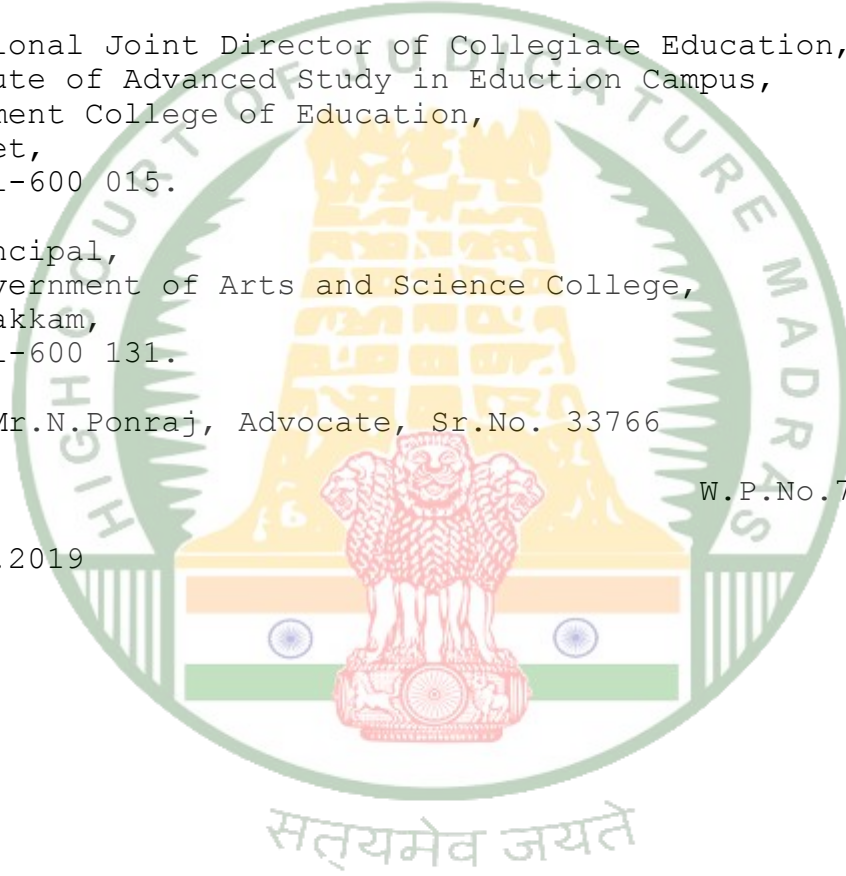
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+1 cc to Mr.N.Ponraj, Advocate, Sr.No. 33766

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SAI (CO)
CSL/29.04.2019



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