

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.18151 of 2019 and
M.P.No.17518 of 2019

V.Balamurugan

...Petitioner

Vs.

1. The Principal Secretary,
School Education Department,
Secretariat to Government,
Government of Tamil Nadu,
Fort St.George, Chennai-09.

2. The Commissioner of Disciplinary Proceedings,
1st Floor, Kuralagam,
Chennai-600 108.

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

4. Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Vellore.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records relating to the impugned proceedings of the Tribunal in T.D.P.Case No.3 of 2012 and also consequential enquiry report dated 30.12.2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.V.Raghavachari for
Mr.M.Narayanaswamy

For Respondents : Mr.K.Karthikeyan, GA

ORDER

This Writ Petition has been filed by the petitioner, praying to issue Writ of Certiorari, to call for the records relating to the impugned proceedings of the

Tribunal in T.D.P.Case No.3 of 2012 and also consequential enquiry report dated 30.12.2016 on the file of the 2nd respondent and quash the same.

2. The petitioner was appointed as District Educational Officer in School Education service in 2000 and posted at Devakkottai. He was promoted as Chief Educational Officer in 2004 and further promoted as Joint Director of School Education in 2010. According to the petitioner, he had discharged his duties without any blemish in all the capacities he worked. While so, a charge memorandum dated 01.04.2015 was issued to him for major penalty proceedings along with notice dated 29.04.2015. The charges against the petitioner are that he demanded illegal gratification while he was discharging as Chief Educational Officer in Tiruvannamalai District. The matter was referred to the Commissioner of Disciplinary Proceedings and thereafter, an enquiry was conducted and a report was also submitted on 30.12.2016. Thereafter, the first respondent directed the petitioner to submit his explanation and in response to the same, a detailed representation was submitted by the petitioner on 27.02.2017, wherein, the petitioner questioned the validity of the initiation of the disciplinary proceedings and that no proper enquiry was conducted against him by the second respondent. According to the petitioner though he raised certain preliminary objections as to the very initiation of disciplinary action against him and also subsequent improper conduct of the disciplinary proceedings, no order has been passed by the first respondent. Therefore, the petitioner is before this Court, challenging the report of the second respondent dated 30.12.2016 on various grounds as raised in the Writ Petition.

3. Shri V.Raghavachari, learned counsel appearing for the petitioner would vehemently submit that there are rudimentary lacunae in the initiation of the disciplinary action initiated against him and also conduct of the enquiry into the charges. According to the learned counsel, no procedure has been followed and no Rule has been adopted nor any of the legal principles laid down by the Hon'ble Supreme Court have been adhered to while framing the charges as well as the conduct of the enquiry. According to him, principles of natural justice have been violated and so also the disciplinary rules. Therefore, the entire disciplinary action stands vitiated. In the affidavit filed in support of the Writ Petition, number of decisions have been cited and also several issues have been raised in assailing the report of the second respondent. Therefore, the learned counsel would submit that it is a fit case for intervention by this Court at this stage as the petitioner

would be gravely prejudiced if final order is passed by the Disciplinary Authority.

4. Considering the elaborate submissions made by the learned counsel for the petitioner, without going into the merits of the various legal and factual contentions raised on behalf of the petitioner, this Court is of the view that such contentions need not be considered by this Court at this stage of the enquiry wherein a report was submitted and the explanation was given in response to the report of the Disciplinary Authority. Whatever be the objection, be it valid or otherwise, can always be considered by the Disciplinary Authority while taking a decision in the matter. The various objections raised in the Writ Petition can be put forth before the Disciplinary Authority and it is well within the power of the Disciplinary Authority to consider such objections. Instead of approaching the authority with those objections, the petitioner has approached this Court, calling for its intervention at this stage of the enquiry proceedings.

5. The petitioner herein was charged with serious acts of misconduct by the respondents for which, enquiry proceedings were set in motion. Although the petitioner might have certain objections in regard to the framing of charges and conduct of the enquiry, but such objections cannot be considered by this Court, as that would amount to fore-closing the option for the administration to proceed further with the enquiry proceedings. Unless the enquiry proceedings are allowed to reach its logical end and the Disciplinary Authority as well as the Appellate Authority apply their minds in finalization of the disciplinary proceedings, this Court's intervention cannot be sought as a matter of routine, particularly when this Court is exercising extraordinary jurisdiction under Article 226 of the Constitution of India. Though the learned counsel attempted to make out as if the present case is an exceptional one for this Court to intervene, this Court is unable to find any such exceptional case made out by the petitioner for this Court to act now by ignoring the advance stage of disciplinary action pending against the petitioner. In these circumstances, this Court is not inclined to entertain the present Writ Petition.

6. Be that as it may, the learned counsel would finally submit that the objections as raised in the Writ Petition may allowed to be raised before the Disciplinary Authority and the Disciplinary Authority may be directed to consider those objections and pass appropriate orders before passing any final order.

7. Considering the submissions made on behalf of the petitioner, it is open to the petitioner to make all objections as raised in the present Writ Petition before

the Disciplinary Authority, namely, first respondent and on such objections being raised, the Disciplinary Authority shall consider the same and pass appropriate orders. In this connection, it is open to the petitioner approach the first respondent by submitting a supplemental explanation by raising all the objections which are incorporated in the affidavit filed in support of the Writ Petition and on such supplemental explanation being submitted, the first respondent shall take that into account before passing the final orders.

With the above observation, this Writ Petition stands disposed of. No costs. And connected Miscellaneous Petition is Closed.
Suk

Sd/-
Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary,
School Education Department,
Secretariat to Government,
Government of Tamil Nadu,
Fort St.George, Chennai-09.
2. The Commissioner of Disciplinary Proceedings,
1st Floor, Kuralagam,
Chennai-600 108.
3. The Director of School Education,
DPI, College Road,
Chennai-600 006.
4. Deputy Superintendent of Police,
Vigilance & Anti Corruption, Vellore.

+1 cc to Government Pleader Sr.No. 54521

+1cc to Mr. M.Narayanaswamy, Advocate SR.No. 53374

WP.No.18151 of 2019

A.SK(09/07/2019)