

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27278 of 2019

and

W.M.P.No.26726 of 2019

T.Ravichandran

...Petitioner

Vs.

- 1.T.Kannabiran,Ex-Secretary,
Kannan Aided Primary School
S/o.R.THiruvankatam
No.398, Reddiayar Street
Kathiramangalam-609 117
Sirkali Taluk
Nagal District.
 - 2.The Block Educational Officer
Sirkali Block
Sirkali-609 111
Nagal District.
 - 3.The District Educational Officer
Sirkali-609 111
Nagal District.
 - 4.The Chief Educational Officer
Nagapattinam
Nagal District.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the charge memo in Memorandum No.7/2019 dated 16.08.2019, second show cause notice in Memorandum No.8/2019 dated 27.08.2019 and the suspension order in File No.10/2019 dated 30.08.2019 issued by the 1st respondent and quash the same.

For Petitioner : Mr.P.Mani

For Respondents : Mr.S.Sounthar for R1
Mr.C.Munusamy
Special Government Pleader
(Education) for R2 to R4

O R D E R

Heard both sides.

This Writ petition challenges charge memo in Memorandum No.7/2019 dated 16.08.2019, second show cause notice in Memorandum No.8/2019 dated 27.08.2019 and the suspension order in File No.10/2019 dated 30.08.2019 issued by the 1st respondent.

2.The case of the petitioner is that the 1st respondent, who was the member of the School Committee, was appointed as Secretary of the School Committee on 22.11.1990, after the death of the father of the petitioner and the 1st respondent, namely R.Thiruvengkatam, who was the Secretary of the school. Initially, the petitioner was appointed as Secondary Grade Teacher in the year 1992 in the school run by the 1st respondent School Committee, under the control and supervision of respondents 2 to 4 herein. His appointment was approved by the Education Department on 09.03.1994 and now, he is working as Head Master in the said school. Further, the District Educational Officer, Nagapattinam has approved the newly constituted School Committee for 3 years only on 16.07.2007 and thereafter, the School Committee was not reconstituted afresh. Since the 1st respondent did not co-operate with the day-to-day functioning of the school, the School Committee removed the 1st respondent from the post of Secretary and appointed the petitioner as the Secretary of the School Committee on 12.07.2019.

3. It is further stated that though the period of appointment of the 1st respondent as Secretary in the School Committee had already lapsed and no approval as contemplated under the provisions of the Tamil Nadu Private School Regulation Act was granted to enable the R1 to continue as Secretary of the School Committee, the 1st respondent issued a show cause notice dated 03.08.2019 calling upon the petitioner to give explanation for not sending the files to him and the petitioner sent a reply to the 1st respondent stating that he need not reply as the 1st respondent has been removed from the post of Secretary by the School Committee. The 1st respondent again issued the second show cause notice dated 27.08.2019 as if the petitioner committed the irregularities stated in the charge memo and the petitioner has to give explanation. Thereafter, the 1st respondent issued a suspension order dated 30.08.2019 suspending the petitioner. Challenging the said proceedings, this writ petition is filed.

4. Mr.P.Mani, the learned counsel appearing for the petitioner submitted that though the 1st respondent has been removed from the School Committee, vide resolution passed on 12.07.2019 and the Education Department was requested to approve such removal of the 1st respondent and appointment of the petitioner as Secretary in the School Committee and appoint the petitioner as Secretary in the School Committee, till date, the approval was not granted by the Education Department.

5. He further submitted that as per the School Committee resolution, the R1 is no longer functioning as Secretary of the School Committee and therefore, the impugned proceedings will not bind the petitioner. The earlier School Committee was approved by the District Educational Officer on 16.07.2007 and such approval is valid only for three years and in as much as no fresh approval was granted, impugned orders passed by the R1 are not sustainable in law and accordingly, he prays to quash the impugned orders.

6.Mr.C.Munusamy, learned Special Government Pleader appearing for respondents 2 to 4 would submit that on earlier occasion, the 1st respondent was appointed as Secretary and till date, the 1st respondent is functioning as Secretary of the School Committee which was approved by the Education Department. Hence, the order passed by the 1st respondent is perfectly correct and it cannot be interfered. He also submitted that if aid is granted in favour of the 1st respondent, the 1st respondent would disburse the same as Secretary to the employees of the school. In support of his contention, he has produced the salary bill raised by the 1st respondent for the month of July and August, 2019 and it was approved by the Block Education Department. Further, he would submit that there was a dispute between the petitioner and his brothers in managing the School Committee and because of the dispute, the Educational authority had taken effective steps to order for direct payment.

7. Mr.S.Sounthar, learned counsel appearing for the 1st respondent would submit that till 31.08.2019, the 1st respondent received aid from the Government and paid salary in favour of the petitioner and the petitioner has also received the salary till 31.08.2019 and therefore, it does not lie in the mouth of the petitioner to now contend that the R1 is not empowered to pass the impugned proceedings.

8. Considering the facts and circumstances of the case and on perusal of records, it is clear that the 1st respondent and the petitioner are relatives and they are running the school in the capacity of Secretary of the School Committee. Further, it reveals that the 1st respondent disbursed the salary in favour of the petitioner for the month of July and August 2019. Disputes arose between them which resulted in passing a resolution against the 1st respondent removing him from the post of Secretary of the School Committee. In as much the fact that the R1 disbursed the salary of the petitioner for the month of July and August, 2019 is beyond any dispute, I am not inclined to interfere with the impugned proceedings at this stage. However, considering the fact that after 16.07.2007, there is no approval granted for the functioning of the School Committee, I am inclined to issue a direction to the Educational Authorities to conduct a detailed enquiry with regard to the dispute in between the petitioner as well as the 1st respondent and the other family members and pass appropriate orders in the manner known to law within a period of four weeks from the date of receipt of a copy of this order and take appropriate action against the erring personnel, either in the management or in the School Committee since it is the specific case of the petitioner that the 1st respondent was removed from the post of Secretary, while the 1st respondent is claiming that he is running the school and the Educational authorities had approved the 1st respondent's action.

9. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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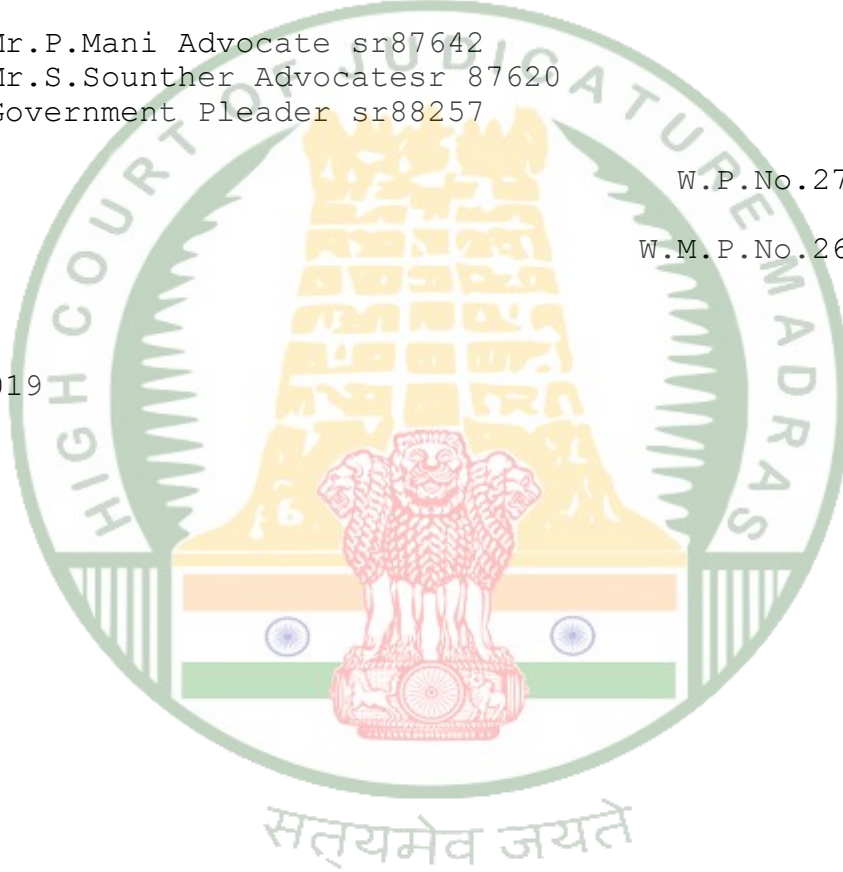
To

- 1.The Block Educational Officer
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Nagal District.
- 2.The District Educational Officer
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Nagal District.
- 3.The Chief Educational Officer
Nagapattinam
Nagal District.

+1 cc to Mr.P.Mani Advocate sr87642
+1 cc to Mr.S.Sounther Advocatesr 87620
+1 cc to Government Pleader sr88257

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