



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.10.2019	Pronounced on: 22.10.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.28336 of 2019
& W.M.P.Nos.28009 & 28011 of 2019

Murali @ Muralitharan,
S/o.late.Balan,
No.7, Barathithasan Street,
Venkateswara Nagar,
Anagaputhur, Chennai - 70.

... Petitioner

/versus/

1. The District Chief Education Officer,
Office of the District Chief Education Officer,
Srinivasan School Compound,
Kanchipuram, Kanchipuram District
2. The District Education Officer,
Office of the District Education Officer,
Chrompet, Chennai - 44.
3. The Head Mistress,
Government Higher Secondary School,
Anagaputhur, Chennai - 70.
4. G.Kirubananthan,
Now working at
Government Higher Secondary School,
Anagaputhur, Chennai - 70.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to quash the order in Na.Ka.No.3586/AA1/2019, dated 06.09.2019 passed by the 1st respondent herein and pass orders.

For Petitioner : Mr.M.Baskar
for Mr.A.Selvendran

For R1 to R3 :Mr.A.Kumar,
Additional Advocate General VII
Assisted by Mr.A.Raja Perumal,
Additional Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Additional Advocate General for the Respondents 1 to 3.

2. The petitioner herein was elected as President of Parents Teachers Association, Government Higher Secondary School, Chennai, in the meeting held on 28.06.2017. While so, the District Chief Education has passed an order in Na.Ka.3586/AA1/2019, dated 06.09.2019, declared the said Parents Teachers Association is non-functional and the petitioner as the President of the Parents Teachers Association failed to function properly. Hence, delegated the administration of the Association to the Head Mistress in-charge and the District Education Officer, St.Thomas Mount, Chrompet.

3. The said order is under challenge in this Writ Petition on the ground that the petitioner, after being elected President of the Parents Teachers Association has spent his own money for the improvement of school infrastructure and brought discipline among the staff and students. Disgruntled by this, the 4th respondent has given a false complaint and also started campaigning against the petitioner and the Head Mistress of the school. At the instigation of the 4th respondent, the 1st respondent has passed the impugned order without notice and opportunity to the petitioner.

4. The Learned Counsel appearing for the petitioner would submit that the impugned order is on vague allegations that the petitioner is not functioning properly. Rule 21 of the Parents Teachers Association does not contemplate the removal of the elected President. While so, without any power or authority, the 1st respondent has issued impugned order depriving the civil right of the petitioner without affording opportunity.

5. In the counter filed by the 1st respondent, wherein, it is stated that, several complaints were received against the petitioner for abusing his Authority as President of Parents Teachers Association. A criminal complaint was lodged against the petitioner by the 4th respondent for criminal assault. In view of the said incident, there was unrest among students and the school was put to bad light in the media. Enquiry was conducted by the 2nd respondent and he has submitted a report on 09.07.2019, wherein, the following allegations against the petitioner were found to be true.

a. The petitioner, The President, Parent Teachers Association has received rupees five

lakhs from the fourth respondent, the same has been not repaid and when demanded he has attacked the fourth respondent, as an attempt to murder.

b. The Petitioner, the President, Parent Teachers Association by checking CCTV cameras and by taking video in his mobile and threatening the teachers and students.

c. Whenever, internal meetings conducted by the Head Mistress, the petitioner, the President, Parent Teachers Association has also accompanied and attending the same.

d. During School hours, without any reasons the petitioner, the President, Parent Teachers Association conducts meetings and disturbing the students and teachers.

e. There is no freedom for the women teachers for working and teaching independently.

f. The petitioner, the President, Parents Teachers Association has threatened the order teachers to pay money.

g. The petitioner, the President, Parents Teachers Association has received Rs.32,700/- (Thirty Two Thousand and Seven Hundred Only) from one Teacher Mr.Thanigaivel who is blind towards school development fund and the same has not spent to the school. Mr.Thanigaivel has given a letter in this regard.

6. Out of 78 teachers, 52 teachers gave complaint against the petitioner and the Head Mistress. In order to restore peace and discipline, the Head Mistress and the 4th respondent were transferred to some other school. The administration of the Parents Teachers Association has been transferred to District Education Office, St.Thomas Mount.

7. The petitioner, as a President of the Parents Teachers Association failed to discharge his responsibility specified in Rule 15 of the Parents Teachers Association. Whenever, the Parents Teachers Association was not able to function, the District Education Office as the Appellate Authority can take over the administration. Accordingly, the 1st respondent has passed the order, delegating the power to the 2nd respondent vide its proceedings, dated 06.09.2019.

8. Further, in the counter, it is also stated that the petitioner, as such, is not eligible to hold the post of President of Parents Teachers Association, since the tenure of the post is three years and while he hold the post of the President, he must be Parent or Guardian of any of the student in the School. Since the petitioner is neither parent nor guardian of any of the students, he is not eligible to hold the post of President.

9. The Learned Counsel appearing for the petitioner would primarily contend that the impugned order is vague and non-speaking. The impugned order cannot be improved by way of counter affidavit. When there is no whisper about any of the complaint narrated in the counter affidavit. The enquiry alleged to have conducted by the 2nd respondent presumably behind the back of the petitioner. Hence, the impugned order is not sustainable in the eye of law.

10. Per contra, the Learned Additional Advocate General appearing for the state would submit that, the activity of the petitioner has created disharmony among the staff as well as students. Only after enquiry, the 1st respondent has thought fit to transfer the administration of Parents Teachers Association. The petitioner, who is not eligible to hold the post of President of Parents Teachers Association can have no right to sustain the Writ Petition.

11. Under G.O.M.s.No.242, dated 28.03.1994, the Education Department has framed Rules for Parents Teachers Association. According to this Rule the Association shall consist of members who are parent or Guardian of the student. The Tenure of the Office is three years except Secretary, who is an ex-officio member. While holding the Office, son/daughter or ward of the members should be in the role of the school. The President of the Parent Teachers Association has to be elected by the General Council. If a person is a philanthropist and spending his money for the development of the school, then even if his ward are not students of the school, the counsel may accept him as President if he is elected without opposition.

12. The petitioner claims that, he has spend his money for the improvement of the school infrastructure and he is eligible to hold the post of President even though his son/daughter are not student of the school.

13. Be it as it may, the post of President of a School Parents Teachers Association is governed by Rules framed by the Government Under the Rules and it is a elected post. The President is vested with responsibility.

14. Rule 21 of Parents Teachers Association, indicates in case, any school Parents Teachers Association becomes in effective for various reasons invoking the power under Rule 21 the administration of the Parents Teachers Association can be transferred by the Appellate Authority.

15. The impugned order specifically alleges that the petitioner as President of the Parents Teachers Association not functioning. In such case, before passing the impugned order, the 1st respondent ought to have given an opportunity to the petitioner to explain. Since the 1st respondent has failed to follow the Principle of Natural Justice, the impugned order is liable to be quashed.

16. Though several allegations are made in the counter and found in the report of the 2nd respondent, they are all done behind back of the petitioner. Therefore same cannot be considered to justify the impugned order. If at all, the 1st respondent wants to remove the duly elected President of Parents Teachers Association, it should be done in the manner known to law. Either the General Council of Parents Teachers Association should resolve by majority to remove the President or the 1st respondent being the Appellate Authority can remove the President of the Parents Teachers Association after affording opportunity to him. The impugned order though not specifically remove the petitioner from the post of President implicitly by transferring the power to the Appellate Authority, the President power has got eclipsed. Hence, the impugned order of the 1st respondent stands quashed insofar as the petitioner right of holding the post of Parents Teachers Association, President. However, the 1st respondent is at liberty to take necessary action against the petitioner, if necessary after affording due opportunity.

17. In the result, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

bsm

Copy to

1. The District Chief Education Officer,
Office of the District Chief Education Officer,
Srinivasan School Compound,
Kanchipuram.

2. The District Education Officer,
Office of the District Education Officer,
Chrompet, Chennai - 44.

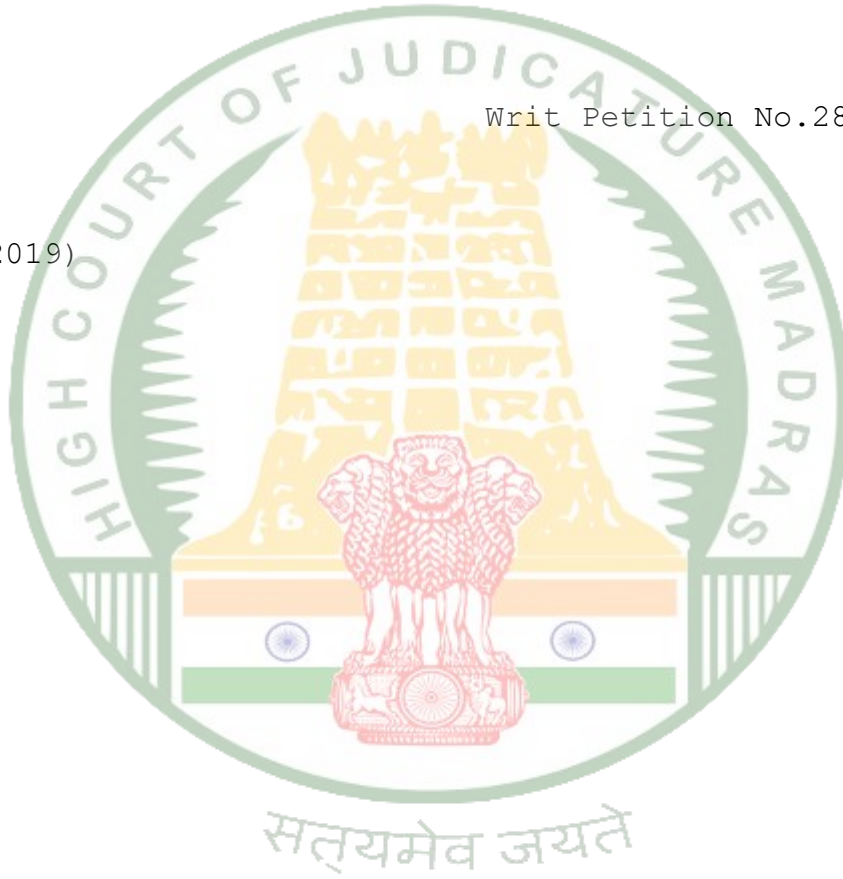
3. The Head Mistress,
Government Higher Secondary School,
Anagaputhur, Chennai - 70.

+1 CC to Mr.A.Selvendran, Advocate sr 88092.

+1 CC to Govt. Pleader sr 88760.

Writ Petition No.28336 of 2019

VBA (CO)
SP (05/11/2019)



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