

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.29110 of 2019

and

W.M.P.No.28881 of 2019

V.Venkatesan

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Director,
State Council for Education Research and Training,
DPI Campus, College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Krishnagiri District,
Krishnagiri.
- 5.The Assistant Secretary / Public Information Officer,
Tamil Nadu Vigilance Commission,
Secretariat, St. Fort George,
Chennai - 600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the 5th Respondent from interfering with the departmental action already initiated and finalized by the 4th Respondent vide order in Pa.Mu.No.3876/A1/2018 dated 24.07.2018, in compliance of Vigilance Commission Regulations.

For Petitioner : Mr.G.Sankaran
For RR 1 to 4 : Mr.C.Munusamy
Special Government Pleader for Edn
For R5 : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The present Writ Petition is filed forbearing the 5th Respondent from interfering with the departmental action already initiated and finalized by the 4th Respondent vide order in Pa.Mu.No.3876/A1/2018 dated 24.07.2018, in compliance of Vigilance Commission Regulations.

2.The case of the petitioner is that he was initially appointed as Secondary Grade Teacher in Elementary Education in 1988. Thereafter he was promoted to the post of Middle School Headmaster in the year 1998. He was then transferred and posted as Assistant Elementary Educational Officer (AEEO) in the year 2000. As per G.O.Ms.No.101 dated 18.05.2018, the post of AEEO has been re-designated as Block Educational Officer (BEO). Thereafter, he was posted as BEO in Thally Union, Krishnagiri District on 01.06.2018. While doing so, certain anonymous complaints made against the petitioner and thereafter a notice was issued by the District Elementary Educational Officer, Krishnagiri on 30.12.2010 to appear before the Vigilance and Anti Corruption Department, Krishnagiri on the allegation of possession of properties disproportionate to his known source of income. The petitioner was issued with notice dated 10.02.2014 by referring to certain properties purchased in the name of his wife and the properties gifted by his father-in-law in favour of his wife and car purchased by petitioner's wife. Even the statement annexed to the notice contains double entry with reference to the car purchased. For that the petitioner submitted a detailed explanation.

2(a).Consequently, the second respondent issued a charge memo dated 03.11.2015 stating that the petitioner is in possession of disproportionate assets to the tune of Rs.5,69,392/- on purchase of movable and immovable assets in the name of his wife which include gifting of properties by his father-in-law for the period from 01.01.2002 to 30.06.2008. For which the same, the petitioner submitted a detailed explanation. The fourth respondent issued an order dated 24.07.2018 imposing punishment of stoppage of increment for five years with cumulative effect, which remains to be a major penalty having serious cascading effects in the salary benefits including pensionary benefits.

2(b).Aggrieved by the said penalty, on 06.08.2018, the petitioner filed an appeal against the order of the fourth respondent dated 24.07.2018. Subsequently, the first respondent on entertaining the appeal petition, issued notice to the

petitioner dated 01.04.2019 calling upon the petitioner to offer explanation as to why the punishment of stoppage of increment of five years with cumulative effect cannot be enhanced into dismissal from service on the premised that he was imposed with minor penalty under Rule 8 of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

2(c).The petitioner filed a Writ Petition before this Court cumulated into the order passed in the Writ Appeal in W.A.No.1941 of 2019, wherein this Court passed orders on 25.06.2019 to get instructions regarding withdrawal of show cause notice dated 01.04.2019 and to transfer the appeal to another equal authority on administrative grounds in order to decide the matter without any kind of bias. Therefore, the second respondent issued order dated 24.07.2019, canceling the show cause notice dated 01.04.2019. The petitioner's case has been reviewed by the Vigilance Commission in the review meeting and the minutes of the meeting has been forwarded to School Education Department for taking necessary action and the copy of the minutes of the review meeting would be furnished only after finalization of the said case, while the petitioner sought information under the provisions of RTI Act. Immediately thereafter the petitioner filed the present Writ Petition with the above mentioned prayer.

3.The learned counsel for the petitioner would submit for the very same aspect, the Disciplinary Authority already dealt the petitioner in the departmental proceeding and major punishment of stoppage of increment of five years with cumulative effect was imposed by the fourth respondent. Challenging the order of the fourth respondent, the petitioner filed an appeal dated 06.08.2018 before the second respondent. While entertaining the appeal, the second respondent issued notice dated 01.04.2019 to the petitioner for his explanation. Thereafter, the petitioner filed a Writ Petition before this Court and then culminated into the order passed in the Writ Appeal in W.A.No.1941 of 2019 dated 25.06.2019. While so, the Disciplinary Authority closed the criminal case against the petitioner and it is the broad apprehension of the Vigilance Commission to review the earlier case. Though the Vigilance Department already taken a decision to close the criminal case against the petitioner and subsequently issued direction to the respondents to initiate the disciplinary proceedings and the same is pending before the Appellate Authority, the Department of Vigilance and Anti Corruption has no power to review with the department proceeding and accordingly prayed for allowing the Writ Petition.

4.Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the fifth respondent would submit that though the criminal case which was registered by the Department of Vigilance and Anti Corruption against the petitioner was already closed, however the Department of Vigilance and Anti Corruption reviewed the conclusion and no criminal case was against the petitioner. After the final orders being passed in the departmental action, the order copy is forwarded to the Vigilance Commission. The Vigilance Commission proceeded the Disciplinary Authority to take departmental action against the petitioner. In which the petitioner has no grievance, as the petitioner submitted representation under the provisions of Right to Information Act to the Vigilance Commission, the fifth respondent herein. It is the decision taken prior to the order of the Writ Appeal and after the departmental proceedings and prayed for dismissal of the Writ Petition.

5.Considering the facts and circumstances of the case, the apprehension of the petitioner is unsustainable and it is an internal communication between the Disciplinary Authority and the Department of Vigilance and Anti Corruption. If any decision is taken pursuant to the Department of Vigilance and Anti Corruption, it is open to the petitioner to file appropriate petition.

6.In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

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5.The Assistant Secretary / Public Information Officer,
Tamil Nadu Vigilance Commission,
Secretariat, St. Fort George,
Chennai - 600 009.

+2 ccs to the Government Pleader sr88261 & 88223
+1 cc to Mr.G.Sankaran Advocate sr88017

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