

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.30303 of 2019
and WMP.Nos. 30289 and 30291 of 2019

M.Lalita

..Petitioner

vs

The District Educational Officer,
Hosur - 635 109.
Krishnagiri District.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings R.C. No. 0889/2018(A2), dated 11.10.2019 and quash the same and consequently directing the respondent to reinstate the petitioner into service.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P. Kavitha, Government Advocate.

O R D E R

Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings R.C. No. 0889/2018(A2), dated 11.10.2019 and quash the same and consequently directing the respondent to reinstate the petitioner into service.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. The case of the petitioner is that the petitioner was working as BT Headmaster in Panchayat Union Middle School, Hanumanthapuram, Hosur Union, Hosur Educational District,

Krishnagiri District and when the petitioner warned the teachers namely N.Ranga, P.Gopi and T.Somasekar for their illegal activities in the school, the said teachers by influencing their local political power made false allegations against the petitioner and due to which the petitioner was placed under suspension. Against the order of suspension, the present writ petition is filed.

4. Mr.C.Prakasam, learned counsel for the petitioner submitted that due caste vandalism the other teachers who are working in the Panchayat Union Middle School, Hanumanthapuram, Hosur Union, Hosur Educational District, Krishnagiri District joined together and made false allegations against the petitioner. On the basis of the false allegations, the petitioner was placed under suspension, which is malafied in nature.

5. Per contra, the learned Government Advocate appearing for the respondent, on instructions submitted that there are some serious allegations as against petitioner and upon the enquiry report submitted by the Assistant Educational Officer, Hosur and the five members committee, the respondent has passed an impugned proceedings, suspending the petitioner from her service. The report also reveals the same.

6. This Court is unable to go into the merits of the allegations made by the petitioner. So long as the power of suspension is available with the respondents and it has been exercised by the competent authority, the Court cannot go behind the order of suspension.

7. The Supreme Court in its decision reported in 1990 (3) SCC 60 (Director General and Inspector General of Police, Andhra Pradesh, Hyderabad and others Vs. K.Ratnagiri) has held in paragraph 7 as follows:

"7....The Rule 13(1) empowers the authority to keep the respondent under suspension pending investigation or enquiry into the criminal charges where such suspension is necessary in the public interest. When the first information report is issued, the investigation commences and indeed it has commenced when the respondent was kept under suspension. The order of suspension cannot, therefore, be said to be beyond the scope of Rule 13(1) merely because it has used the word 'prosecution' instead of investigation into the charges against the respondent. A wrong wording in the order does not take away the power if it is

otherwise available. The Tribunal seems to have ignored this well accepted principle." Further, it was observed in paragraph 3 as follows:

"3....The government may review the case and make further or other order but the order of suspension will continue to operate till it is rescinded by an appropriate authority."

8. Once again, the Supreme Court vide its decision reported in 1994 (2) SCC 617 (State of Haryana Vs. Hari Ram Yadav and others) held in paragraph 10 as follows:

"10....The law is well settled that in cases where the exercise of statutory power is subject to the fulfilment of a condition then the recital about the said condition having been fulfilled in the order raises a presumption about the fulfilment of the said condition, and the burden is on the person who challenges the validity of the order to show that the said condition was not fulfilled. In a case, where the order does not contain a recital about the condition being fulfilled, the burden to prove that the condition was fulfilled would be on the authority passing the order if the validity of the order is challenged on the ground that the condition is not fulfilled...."

Further, in paragraph 11 of the judgment, it was observed as follows:

"11....There is no averment in the said petition challenging the validity of the impugned order of suspension on the ground that the Governor of Haryana was not satisfied that it was either necessary or desirable to place Respondent 1 under suspension. In the absence of any such averment it must be held that the impugned order was passed after fulfilling the requirement of Rule 3(1) of the Rules in view of the presumption as to the regularity of official acts which would be applicable and the absence of a recital in the order about the Governor being satisfied that it was either necessary or desirable to place respondent 1 under suspension is of no consequence...."

9. In the light of the above, the writ petition filed by the petitioner is misconceived and deserves to be dismissed. Accordingly, the writ petition shall stand dismissed. However, it is open to the petitioner to seek a review of the order of suspension by making a representation before the competent authorities and if such a representation is made, it is needless to state that the authorities will consider the said representation and pass orders on the same in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The District Educational Officer,
Hosur - 635 109.
Krishnagiri District.

+1cc to Mr.C.Prakasam, Advocate SR.90154

+1cc to the Government Pleader SR.90721

W.P.No.30303 of 2019
and

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SS(CO)
CB(02/12/2019)



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