



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3979 of 2011

WEB COPY

R.Sivakumar

... Petitioner

Vs.

1.The District Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

2.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

3.The Secretary,
T.N.PM.M.N.Hr.Sec.School,
Thalavaipuram,
Virudhunagar District.

... Respondents

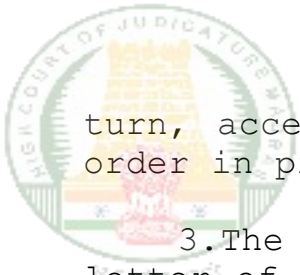
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order in O.Mu.No.4416/A3/2010 dated 20.12.2010 on the file of the respondent No.1 and quash the same as illegal and consequently, to direct the respondents to reinstate the petitioner as Physical Education Teacher in the School of respondent No.3 and to provide all the consequential and monetary benefits to the petitioner as Physical Education Teacher with effect from 19.07.2010.

For Petitioners	: Mr.T.Lajapathi Roy
For R1 and R2	: Mrs.S.Srimathi Special Government Pleader
For R3	: Mr.V.Pannerselvam

ORDER

The order, dated 20.12.2010 accepting the resignation of the writ petitioner from the post of Physical Education Teacher in proceeding dated 20.12.2010, is under challenge in the present writ petition.

2.The learned counsel appearing for the writ petitioner states that the writ petitioner was appointed as a Physical Education Teacher in third respondent School on 01.06.1995. On account of certain personal reasons, the writ petitioner submitted a letter of resignation on 14.07.2010. The said letter was forwarded by the School Management to the District Educational Officer, who in-



turn, accepted the letter of resignation and passed the impugned order in proceeding, dated 20.12.2010.

3.The learned counsel for the writ petitioner states that the letter of resignation was obtained by force by the Management and he did not send any such resignation letter directly to the District Educational Officer. The letter of resignation obtained by force was sent by the Management to the District Educational Officer and the District Educational Officer has also conducted an enquiry and issued an order accepting the letter of resignation.

4.It is contended that the District Educational Officer is not the competent authority to conduct such an enquiry with reference to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974. The learned counsel for the writ petitioner solicited the attention of this Court regarding the Rule 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974, which reads as under:

"(4)No Teacher or other person employed in a private school shall be relieved from service on the strength of resignation letter. The resignation letter shall, on receipt, be sent to the Chief Educational Officer concerned in respect of Teacher and other persons employed in High Schools, Higher Secondary Schools and Teachers' Training Institutes and to the District Educational Officer concerned in respect of Teacher and other person employed in a Pre-Primary, Primary and Middle Schools. The Chief Educational Officer or District Educational Officer concerned shall, in turn, get the confirmation of the Teacher or other person employed, as the case may be, as to the fact of such resignation and then accord his approval to relieve the Teacher or other person employed, as the case may be, from service."

5.As per the said Rule, the enquiry ought to have been conducted by the Chief Educational Officer concerned. However, the District Educational Officer, who is an incompetent authority conducted an enquiry and issued impugned order which is directly in violation of Rule 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974.

6.The learned Special Government Pleader appearing on behalf of the respondent Nos.1 and 2 opposed the said contention by stating that the District Educational Officer received the letter of resignation from the Management and conducted an enquiry and passed an order. In view of the fact that the Management has submitted the letter of resignation before the District Educational Officer, the District Educational Officer conducted an enquiry and passed the orders. However, the learned Special Government Pleader is unable to establish that whether the



concerned Chief Educational Officer had conducted an enquiry as contemplated under Rule 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. The learned Special Government Pleader made a submission that the writ petitioner also sent the letter of resignation directly to the District Educational Officer. Thus, there is no infirmity in respect of the order passed by the District Educational Officer.

7.The learned counsel appearing on behalf of the third respondent School Management disputed the contention of the writ petitioner by stating that the letter of resignation was given by the writ petitioner voluntarily. The School Management had taken steps to initiate disciplinary proceedings and the order of suspension was passed. However, knowing this factor, the writ petitioner has submitted the letter of resignation on 14.07.2010. The writ petitioner voluntarily submitted his letter of resignation to the District Educational Officer concerned and the District Educational Officer conducted an enquiry and passed the order. Thus, there is no coercion or force on the part of the School Management and in order to circumvent the issue, now the writ petitioner has chosen to file the present writ petition.

8.It is contended that once the letter of resignation is accepted by the Chief Educational Officer, pursuant to the enquiry conducted by the District Educational Officer, the same became final and therefore, the claim of the writ petitioner is liable to be rejected.

9.The learned counsel for the writ petitioner made a submission that the writ petitioner had already withdrawn the letter of resignation even before its acceptance and those aspects were not considered by the District Educational Officer at the time of conducting the enquiry.

10.This Court is of the considered opinion that all these factors are to be enquired into by the Chief Educational Officer concerned with reference to the original files available with him. These disputed facts cannot be adjudicated in the present writ petition and this Court is of the opinion that the disputed facts and issues are to be adjudicated by producing the documents and by adducing evidence before the competent authorities. Such an exercise cannot be done in a writ proceeding under Article 226 of the Constitution of India. However, the issue to be considered in the present writ petition is whether the competent authority has passed the order impugned, accepting the letter of resignation submitted by the writ petitioner.

11.Carefull reading of Rule 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, it is unambiguous that the letter of resignation if submitted by the Teachers and other persons employed in High Schools, Higher



Secondary Schools and Teachers Training Institutes, the Chief Educational Officer is the competent authority and in respect of the Teachers and other persons employed in pre-primary, primary and Middle School alone, the District Educational Officer is the competent authority. When the Rule unambiguously enumerates that the Chief Educational Officer is the competent Authority to conduct the enquiry in respect of the resignation letters submitted by the Teachers and other persons employee in a High School, Higher Secondary School and Teachers Training Institute, the enquiry conducted by the District Educational Officer is improper and is in violation of the Rules 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974.

12. In view of the fact that the procedures contemplated under Rule 17(A)(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 had not been followed in the case of the writ petitioner, this Court is inclined to remit the matter back to the Chief Educational Officer concerned for the purpose of conducting a fresh enquiry by affording adequate opportunity to all the parties concerned, take a decision and pass orders. This being the factum of the case, the following orders are passed:

(i) The impugned order passed by the first respondent in proceeding in O.Mu.No.4416/A3/2010, dated 20.12.2010 is quashed.

(ii) The Chief Educational Officer, Virudhunagar District, is directed to call for the entire files in connection with the resignation letter submitted by the writ petitioner and conduct an enquiry after affording an opportunity to the School Management, and the writ petitioner and if necessary to other connected persons and pass an order on merits and in accordance with law.

(iii) the first respondent is directed to complete the said exercise of enquiry and pass final orders within a period of 12 weeks from the date of receipt of a copy of this order.

(iv) It is made clear that the first respondent should consider all the facts and circumstances leading to the letter of resignation with reference to the statute and Rules in force.

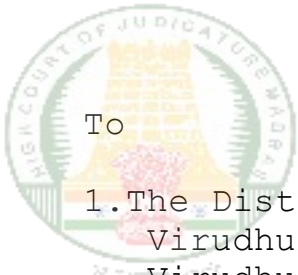
(v) Accordingly, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The District Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

2.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

+1 CC to Mr.V.PANNEER SELVAM, Advocate SR-77491.

+1 CC to SPL GP SR-77759.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate SR-77900.

W.P. (MD) No.3979 of 2011
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CS (05.08.2019) 5P 6C