



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2019

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THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P(MD)No.14477 of 2019 and
WMP(MD).Nos.10909 and 10910 of 2019

A. Santhi ...Petitioner

Vs

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

2.The District Educational Officer,
Thiruchendur Education Division,
Tuticorin District.

3.The Correspondent,
Eka Ratchakar Sabai Middle School,
Mukkuperi, Alwar Thiruagari,
Tuticorin

4.The Block Educational Officer,
Alwar Union, at Thenthirupaarai,
Thiruchendur Taluk,
Tuticorin District.

... Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned charge memo No.1, dated 04.06.2019 by the third respondent and to quash the same.

For Petitioner : Mr.J. David Ganesan

For R1, R2 and R4 : Mr. A. Thiagarajan

Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned charge memo No.1, dated 04.06.2019 issued by third respondent against the petitioner.

2. Mr.A. Thiagarajan, learned Government Advocate took notice for the respondents 1, 2 and 4. By consent, this Writ Petition is taken up for final disposal at the admission stage



itself.

3. According to the petitioner, the third respondent has issued a show cause notice, dated 04.06.2019, wherein the third respondent asked the petitioner to submit her explanation as to why action shall not be taken against her for the allegation mentioned therein, within a period of 5 days and the petitioner also submitted her explanation on 04.06.2019 for the said allegation. Further, the petitioner has stated in the said explanation that the allegation raised against her is premeditated one. Alleging malafide action, the petitioner has filed WP(MD).No.9906 of 2017 before this Court against the third respondent and obtained an interim order in her favour on 20.05.2017, which was challenged by the 3rd respondent vide W.A (MD).No.875 of 2017 and on 16.02.2018 the same was disposed of directing the respondents herein to proceed with the departmental enquiry, pursuant to the charge memo, dated 20.03.2017 and to not pass final orders till the outcome of WP(MD).No.9906 of 2017.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.

5. This Court perused the order passed by this Court in WA(MD).No. 875 of 2017, dated 16.02.2018. The 3rd respondent School is a minority institution. Admittedly, the 3rd respondent has issued only a show cause notice, for which the petitioner submitted her explanation. Thus, this Court is not inclined to interfere at this show cause notice stage. In similar circumstances the Hon'ble Supreme Court in the case of **Union of India Vs. Kunisetty Satyanarayana** reported in (2006) 12 SCC 28, held as under:

"It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdesh Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another AIR 2004 SC 1467, Ulagappa and others vs. Divisional Commissioner, Mysore and others 2001(10) SCC 639, State of U.P. vs. Brahm Datt Sharma and another AIR 1987 SC 943 etc. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible



that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

6. Therefore, no prima facie case is made out to entertain the Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

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

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+1 CC to M/s.J.DAVID GANESAN, Advocate (SR-72373[F] dated
01/07/2019)

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