



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) Nos.7407 of 2018 & 5218 of 2019

and

W.M.P. (MD) Nos.4168 & 7859 of 2019

R.Ponnaiah

...Petitioner in both W.Ps.,

Vs.

1.The District Educational Officer,
Thoothukudi District,
Thoothukudi.

2.The Secretary,
Karapettai Nadar Higher Secondary School,
Thoothukudi.

...Respondents 1 and 2 in both W.Ps.,

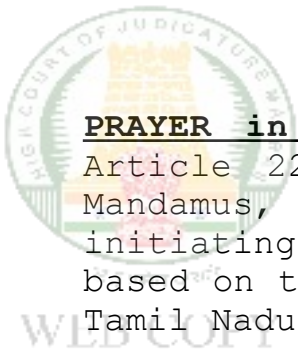
3.The Headmaster,
Karapettai Nadar Higher Secondary School,
Thoothukudi.

...3rd Respondent in W.P. (MD) No.7407 of 2018

3.Ganapathy Subramanian,
Advocate,
Enquiry Officer,
2F/1477, Madathur Road,
Near Asirvatha Nagar,
Postal and Telegraph Colony South,
Thoothukudi - 628 008.

...3rd Respondent in W.P. (MD) No.5218 of 2019

PRAYER in W.P. (MD) No.7407 of 2018: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings dated 13.03.2018 and quash the same and consequently, directing the respondents herein to regularize the petitioner's period of suspension from 13.03.2018 to till date.



PRAYER in W.P. (MD) No.5218 of 2019: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 2 and 3 herein from initiating any disciplinary proceedings against the petitioner based on the charge memo dated 29.12.2018 contrary to provision of Tamil Nadu Recognized Private Schools Act.

For Petitioner
in both W.Ps., :Mr.D.Srinivasaragavan

For R1
in both W.Ps., :Mrs.S.Srimathy
Special Government Pleader

For R2
in both W.Ps., :Mr.P.Pethurajesh

COMMON ORDER

W.P.(MD) No.7407 of 2018 has been filed to quash the order dated 13.03.2018 passed by the second respondent and to direct the respondents herein to regularize the petitioner's period of suspension from 13.03.2018 to till date.

2.W.P.(MD) No.5218 of 2019 has been filed for forbearing the respondents 2 and 3 herein from initiating any disciplinary proceedings against the petitioner based on the charge memo dated 29.12.2018.

3.The learned counsel for the petitioner would submit that the petitioner was working as PG Assistant (Tamil) in the third respondent School. Due to previous motive, one Sankareswaran has assaulted the petitioner and after receiving a complaint from the petitioner, a case in Cr.No.124 of 2018 has been registered against the said Sankareswaran and a counter case in Cr.No.125 of 2018 has also been registered against the petitioner by the respondent police. In the meantime, pursuant to the criminal case in Cr.No.125 of 2018, by order dated 13.03.2018, the petitioner was placed under suspension by the second respondent.

4.The learned counsel for the petitioner would further submit that the said order of suspension dated 13.03.2018 is not at all valid under the provisions of Tamil Nadu Recognized Private Schools (Regulation) Act and the second respondent School Management does not have jurisdiction to pass the order of suspension, as there is no authorization by the School Committee to pass such order. Hence, the order of suspension dated 13.03.2018 passed by the second respondent is liable to be quashed.



5.The learned counsel appearing for the second respondent relied upon a judgment of this Court passed in W.A.(MD) No.1603 of 2019 and etc., batch dated 08.05.2019, wherein, this Court has held as follows:

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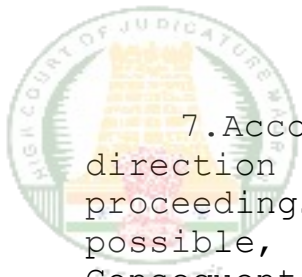
30. The learned Single Judge also accepted the proposition laid down in the decisions of this Court, instead of relegating the writ petitioner to the competent Civil Court, quashed the Form-VII filed by the President of the Society and direct the appellants to approach the Civil Court. In the considered opinion of this Court, the Writ Petition in W.P. (MD).No.19467 of 2016 is not maintainable and the order passed in the Writ Petition is liable to set aside.

31. Indisputably the last triennium ended in 2017. Therefore, the District Registrar (Registration and Societies) Thoothukudi, is hereby directed to conduct the election either by himself or by appointing an responsible Officer to the Thoothukudi Vadathisai Hindu Nadar Mahamai Dharma karapettai Paripalana Sangam with the available members in Members' list already registered in Form VII i.e., 774 as expeditiously as possible, however not later than two months from the date of receipt of a copy of this order.

32. The next issue arises for consideration is whether the Secretary of Karapettai Nadar Higher Secondary School is entitled to continue till the new office bearers assume office.

33. It is pertinent to note that as per the Bye-law 10 of the Society, the elected member shall continue to hold the office till a new team assumes office. A resolution was passed by the Executive Committee of Karapettai Nadar School Paripalana Sabai on 08.09.2017 authorising / approving extension of the term of the office bearers till a new office bearers are elected. This Court issued a direction to hold election within a period of two months. Taking note of the above facts, the Secretary of karapettai Nadar High School is permitted to continue the post until new office bearers are elected.

6.In view of said judgment dated 08.05.2019, this Court finds that the second respondent has already been permitted to continue in the same post in the respondent school until new office bearers are elected. Therefore, the contention of the petitioner in supporting his case is liable to be rejected and and the same is rejected.



7. Accordingly, these writ Petitions are dismissed with a direction to the second respondent to complete the enquiry proceedings, pending against the petitioner as expeditiously as possible, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The District Educational Officer,
Thoothukudi District,
Thoothukudi.

+2 CC to Mr.P.PETHU RAJESH, Advocate SR-76773 & 76772.

+1 CC to SPL GP SR-76939 & 76940.

+1 CC TO Mr.D.Srinivasaragavan, Advocate SR No.76818.

W.P. (MD) Nos.7407 of 2018 & 5218 of 2019

CS (02.08.2019) 4P 6C