



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM:

THE HONOURABLE **MS. JUSTICE V.M.VELUMANI**

W.P. (MD) No.23766 of 2019

and W.M.P. (MD) Nos.20361 & 20362 of 2019

WEB COPY

S.Ravichandran

... Petitioner

Vs.

1.The Director,

Directorate of Elementary Education,
DPI, Nungambakkam, Chennai.

2.The Chief Educational Officer,
Theni District.

3.The District Educational Officer,
Theni District.

4.The Block Educational Officer,
K.Mayiladumparai,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the third respondent by his proceedings in R.C.No.2242/A5/2017 dated 15.10.2019, quash the same and direct the third respondent to transfer the petitioner to any other location within the district.

For Petitioner : Mr.J.Ananthakumar
for M/S.K.P.Palanivel Rajan
For Respondents : Mr.M.Karuppasamy,
Government Advocate.

ORDER

This Writ Petition has been filed to quash the order passed by the third respondent in R.C.No.2242/A5/2017, dated 15.10.2019, and to direct the third respondent to transfer the petitioner to any other location within the district.

2.Mr.M.Karuppasamy, learned Government Advocate takes notice for the respondents. By consent of parties, this writ petition is taken up for final disposal at the stage of admission itself.



3.The petitioner, while working as Headmaster in Panchayat Union Middle School, Kamankallur was suspended from service with effect from, 20.11.2017 based on the registered complaint against him for the offence under Section 10 of POSCO Act 2012. The Investigating Officer, after enquiring the matter and producing the minors for recording statements under Section 164 Cr.P.C., before the learned Judicial Magistrate, closed the case as mistake of fact and sent a report to the defacto complainant. The petitioner filed a petition in Crl.O.P.(MD)No.18210 of 2018 before this Court for a direction to the Police to expedite the investigation in Crime No.370 of 2017 on the file of the Inspector of Police, Mayiladumparai Police Station, Theni District and to file a final report. This Court by an order dated 11.10.2018, recording the statement of the learned Government Advocate that the Investigating Officer completed the investigation and sent the closure report, for getting opinion of the Additional Public Prosecutor, disposed of the above said petition and liberty was also given to the petitioner to workout his remedy as and when the closure report is filed.

4.Thereafter, the petitioner filed a petition in W.P.(MD) No.379 of 2019 for revocation of suspension, in view of the fact that the criminal case registered against him has been closed as mistake of fact. This Court directed the authorities to consider the revocation of suspension of the petitioner in the light of the judgment reported in **2015 7 SCC 291 (Ajay Kumar Choudry Vs. Union of India)**. The suspension of the petitioner was revoked and the petitioner was reinstated into the service. Based on the opinion of the Additional Public Prosecutor and refusal of the Court to accept the closure report, the case was transferred to the Inspector of Police, All Women Police Station, Aundipatti. The petitioner was arrested and remanded to judicial custody on 09.10.2019 and subsequently, he was released on bail on 24.10.2019.

5.The Inspector of Police, All Women Police Station, sent a copy of the First Information Report to the third respondent. On receipt of the First Information Report, the third respondent suspended the petitioner from service. Aggrieved over the same, the petitioner has come out with the present writ petition contending that the third respondent without application of mind, suspended him from service.

6.From the records and materials, it is seen that the earlier order of suspension was revoked on the ground that the criminal case against the petitioner was closed as mistake of fact. However, the Criminal Court has not accepted the closure report and transferred the investigation to the Inspector of Police, All Women Police Station, Aundipatti and also FIR was



registered against the petitioner and the same is pending. The petitioner was arrested by the Inspector of Police, All Women Police Station, Aundipatti, on 09.10.2019. The petitioner was suspended from service by the impugned order, on the ground that he was arrested and was in judicial custody for more than 48 hours and also in the interest of public. The investigation, on the complaint given under POSCO Act, was re-opened as per the order of the Criminal Court and the investigation is pending.

7.In view of the above, there is no merit in the claim of the petitioner for revocation of suspension and therefore, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Director,
Directorate of Elementary Education,
DPI, Nungambakkam, Chennai.

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Theni District.

3.The District Educational Officer,
Theni District.

4.The Block Educational Officer,
K.Mayiladumparai,
Theni District.

+1 CC to Mr.K.P.S.PALANIVELRAJAN, Advocate (SR-97803[F] dated 13/11/2019)

+1 CC to SPL GP (SR-98079[F] dated 13/11/2019)

W.P. (MD) No.23766 of 2019
12.11.2019

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