

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18 / 09 / 2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.14633 OF 2004
AND WMP NO.7861 OF 2008

K.Rajkumar

... Petitioner

Vs.

1.Ramakrishna Mission Vidyalaya
Institute of Agriculture and Rural Development
Rep. By its Chairman
Managing Committte
Sri Ramakrishna Mission Vidyalaya Post,
Coimbatore.

2.The Secretary
Ramakrishna Mission Vidyalaya Institute of
Agriculture and Rural Development
Sri Ramakrishna Vidyalaya Post,
Coimbatore.

3.The Commissioner of Agriculture
Department of Agriculture
Chepauk, Chennai - 5.

4.The Director of Collegiate Education
College Road, Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 10.05.2004 passed by the 1st respondent, quash the same and consequently direct the respondents to reinstate the petitioner with continuity of service, backwages and other attendant benefits.

For Petitioner	:	Mr.V.Ajoy Khose
For Respondents 1&2	:	Mr.Ramesh Venkatachalapathy
For Respondent - 3	:	Ms.R.Janaki
		Additional Government Pleader
For Respondent - 4	:	Mr.V.Kadhirvelu
		Special Government Pleader

O R D E R

The above writ petition has been preferred against the order of dismissal from service, against the petitioner, by the first respondents.

2. According to the petitioner, he was appointed as a Lecturer in the first respondent / Institution on 10.07.1995 considering the possession of higher qualification namely M.Sc., (Agriculture). The appointment order contains the terms and conditions of appointment. The said appointment was approved by the third respondent in his Proceedings dated 14.09.1995 with effect from 10.07.1995. While he was discharging his duties very efficiently, a charge memo dated 15.09.1999 was issued and the petitioner has submitted his explanation. However, on 16.09.1999, he was placed under suspension. From 17.09.1999 to 19.10.1999, he applied for medical leave. In the meanwhile, on 16.09.1999 itself, the second respondent had revoked the suspension and the petitioner had joined duty on 20.10.1999 on expiry of the medical leave. Since the then Principal Mr. Sugantharaj offered to quit the post of Principal and to get reverted to the post of Lecturer, it was notified to selected candidates. The petitioner had also applied for the post and was called for an interview. However, he was not appointed. The first respondent selected one Mr. Karuppasamy. Since he was aged about 67 years, he could not be appointed as a Principal. But he was appointed as a Secretary of the Institution. In the meanwhile, Mr. Sugantharaj was allowed to continue as Principal (In-charge).

3. While the matter stood thus, there was some misunderstanding between the second respondent i.e., Karuppasamy and the petitioner and therefore, a show cause notice was issued to the petitioner on 12.12.2003 on various charges. On 18.12.2003, the petitioner had submitted his explanation denying the charges. On 26.12.2003, the petitioner was placed under suspension. An Enquiry Officer was appointed on 14.02.2004 and enquiry was held and the enquiry report was submitted on 05.04.2004. However, the alleged rude behaviour of the petitioner with the second respondent / Secretary alone was held to be proved and the other charges were held not proved. The enquiry report was furnished to the petitioner along with the show cause notice calling for explanation as to why he should not be removed from service. The petitioner submitted his explanation on 27.04.2004. However, on 10.05.2004, without considering the objections of the petitioner, he was removed from service as a measure of punishment. Challenging the same, he immediately preferred the above writ petition and interim stay was also granted by this Court in WMP No.17347 of 2004 on

25.05.2004.

4. With this background, the learned counsel for the petitioner would contend that the order of removal from service is bad in law and violative of the provisions of Tamil Nadu Private Colleges (Regulations Act, 1976 (shortly "the Act"). He would further contend that the first respondent is a Private College within the meaning of Section 2(8) of the Act. As per which, an order of dismissal cannot be passed by the College Committee, but it shall be passed by the Managing Committee constituted under the Act. Therefore, the removal order passed by the College Committee is non-est in the eyes of law and is liable to be set aside. Further, the impugned order is violative of principles of natural justice and that he was not paid even the subsistence allowance. Therefore, he would seek to exonerate him from the charges as the action taken by the second respondent was out of personal enmity. Further, after removing him from service, as per Section 19 of the Act, an approval must be obtained. So far as the approval was not obtained, the order impugned in this writ petition becomes non-est in the eyes of law and inoperative and the petitioner is entitled to reinstatement.

5. The respondents 1 and 2 have filed detailed counter affidavit stating that the teaching and non-teaching staff are governed by the service conditions of the staff members of Ramakrishna Mission. The Ramakrishna Mission is a Society registered under the Central Act 21/1860 and therefore, they will not fall under Article 12 of the Constitution of India and as such, the writ petition against the Society relating to its internal administration is not maintainable.

6. The third respondent filed an affidavit in WMP No.7861 of 2018 in WP No.14633 of 2004 seeking to delete their name in the writ petition stating that they have not passed any order against the petitioner and no cause of action has been shown against them, as a third party and therefore, their presence is unnecessary in the writ petition. Even if the petitioner succeeds in the writ petition, the third respondent is not in a position to give any relief to the petitioner, since no order passed by the third respondent has been challenged in the writ petition. Further, it is stated that they are neither necessary nor proper party to the above writ petition. Therefore, they would seek deletion of their name from the array of parties.

7. The fourth respondent filed a counter stating that they have no control over the first respondent / Institution and the fourth respondent has no authority to approve the dismissal of the writ petitioner. Further, they have not passed any order

against the petitioner and no cause of action has been shown against them and therefore, their presence is unnecessary in the writ petition. It is further stated that even if the petitioner succeeds in the writ petition, the fourth respondent is not in a position to give any relief to the petitioner, since no order passed by the fourth respondent has been challenged in the writ petition. Since the first respondent / Institution is not coming under the control of the fourth respondent, he would submit that it does not require approval by the fourth respondent and therefore, it shall be dismissed for misjoinder of parties.

8. From the above counter affidavits filed by the respondents 3 and 4, it is clear that the administrative control over the service of the employees of the first respondent were not under them. The fourth respondent is the Director of Collegiate Education, who would categorically state that the first respondent / Institution is not coming under their control. Therefore, the first respondent / Institution cannot be considered as a "College" under the control of the fourth respondent.

9. Now that, it is relevant to note that the materials produced before this Court clearly shows that originally the first respondent / Institution was run with the grant allotted by the Government of India. The Ramakrishna Mission Vidyalaya Institute of Agriculture and Rural Development at Coimbatore is an institution run by the Ramakrishna Mission is presently under the Control of Director of Agriculture, Chennai. It was originally a part of Rural Development Programme of Government of India. It imparted two years programme leading to a Diploma Course after an examination conducted by the Government of India. The Government issued orders for providing 75% of grant towards expenditure and stipend for 20% of the students @ Rs.40/- per month. The Government of India proposed to stop the financial assistance with effect from 01.04.1977 and wanted the institution to get into the main stream of the State education. However, the State Government, considering the request of the first respondent, directed as follows in G.O.Ms.No.1422, Agriculture Department, dated 12.08.1977:-

"4. The practice of award of stipends may be discontinued. The pupils may be given scholarship under the Scholarship Scheme for students for Backward Classes, Schedule Castes and Schedule Tribes as at present.

5. (a) The existing staff pattern is adequate and may be continued;

(b) The existing staff may be given weightage of service rendered while under the National Council for Rural Higher Education when the School is recognised as a special school as

suggested under item (i) above;

(c) They may be allowed all the benefits as has been given to the staff of the School of Engineering and College of Rural Higher Education in matters relating to pay and service conditions; "

Therefore, it is seen that the Director of Agriculture has to send proposal for the sanction of grant-in-aid to the Government.

10. From the above, it is seen that the Government of Tamil Nadu, considering the educational programme conducted for the children of the farmers and also awareness camps, demonstrations to farmers to improve their agricultural activities, had granted permission to run the institution under the control of the Director of Agriculture. However, it is found that the Government though provided grant-in-aid through the Director of Agriculture, does not have any control over the school. For additional grant of non-recurring expenditure for the school, the third respondent shall send proposals in advance to the Government. That means, the entire grant-in-aid depends on the actual expenditure incurred and on the basis of the audited statement of expenditure of the previous year. Therefore, it cannot be construed that it is a regular establishment falling within the main stream of education. The Government Order in G.O.Ms.No.1422, Agriculture Department, dated 12.08.1977 has clearly set out all these details. Therefore, the above Agricultural College can be considered as a part of the project run by the Government for improvement of agriculture and it cannot be construed as a college or school.

11. The learned counsel for the petitioner would vehemently contend that the syllabus is framed by the Agricultural University and the examinations are also conducted by them. On the basis of the results announced by the Agricultural University, Certificates were issued. Even a reading of the nomenclature of the first respondent would show that it is a College attracting the provisions of the Tamil Nadu Private Colleges (Regulation) Act. Therefore, he would contend that the petitioner should be construed as a Lecturer as per the above Act.

12. I have given my serious consideration about the same.

13. In so far as the conduct of examination and publication of results are concerned, the Agricultural University is doing it as an agency for conducting examination and issuing Certificates. Only because the examinations are

conducted and Certificates are issued, it cannot be assumed that the first respondent is affiliated to the Agricultural University. For example, the Examinations for Secondary School Leaving Certificate (SSLC) and Higher Secondary Course (HSC) for the students of Pondicherry within Pondicherry and Karaikal are conducted by the Director of Examinations, Education Department, State of Tamil Nadu. Likewise, for Mahe region of Union Territory of Pondicherry, SSLC and HSC examinations are conducted by the Director of Examinations, State of Kerala. For Yanam region, Director of Examinations, Andhra Pradesh. The Certificates are all issued by the respective authorities, who conducts the examinations. The above process does not mean that the students of Union Territory of Pondicherry are falling under the control of the education system of Tamil Nadu. The Board of Examinations of Tamil Nadu, Andhra Pradesh and Kerala are acting as agencies for conducting the examinations on behalf of the Government of Pondicherry. In that view of the matter, the control over the education system within the Union Territory of Pondicherry falls under the control of Government of Pondicherry and not under other States. Likewise, examination conducted by the Agricultural University shall be treated as an examination conducted by an Agency appointed by the institution. Therefore, the first respondent / Institution will fall neither under the Agricultural University Act nor under the Tamil Nadu Private Colleges (Regulation) Act.

14. As per G.O.Ms.No.1422, the school run by the first respondent will fall under the control of Director of Agriculture and the certificates issued will have the approval of the Director of Agriculture. But the staff of the institution will not fall under the control of Director of Agriculture/the third respondent. Therefore, the totality of the circumstances, lead us to infer that the third respondent provides only the financial assistance and monitoring the conduct of programme. In other words, it can be called as an Agricultural Project of the State of Tamil Nadu. If the Director of Collegiate Education, Agriculture University and the Director of Agriculture are omitted, it only remains that the staff are falling under the control of the Society which runs the first respondent institution. The order of appointment given to the petitioner also contains certain terms and conditions. The petitioner is bound by those terms and conditions. As per the terms and conditions of appointment, the respondents have followed the procedure for removal of the petitioner from service. In that event, the petitioner cannot be considered as a Lecturer, governed by the Tamil Nadu Private Colleges (Regulation) Act and no approval from the authorities is required. Therefore, the judgments relied on by the learned counsel for the petitioner are not applicable. The petitioner has to work out his remedy only before the appellate forum provided in the by-laws of the

Society.

15.The writ petition is misconceived and accordingly, stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

TK
To

- 1.The Chairman
Ramakrishna Mission Vidyalaya
Institute of Agriculture and Rural Development
Managing Committte
Sri Ramakrishna Mission Vidyalaya Post,
Coimbatore.
- 2.The Secretary
Ramakrishna Mission Vidyalaya Institute of
Agriculture and Rural Development
Sri Ramakrishna Vidyalaya Post,
Coimbatore.
- 3.The Commissioner of Agriculture
Department of Agriculture
Chepauk,
Chennai - 5.
- 4.The Director of Collegiate Education
College Road,
Chennai - 600 006.

+1 cc to M/s.M.Sriram, Advocate Sr.No. 30672
+1 cc to M/s.V.Ajoy Kishore, Advocate Sr.No. 30558

RSV(CO)
RMP(29/09/2020)

W.P.NO.14633 OF 2004