

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2243 of 2020
and WMP Nos.2621 & 2624 of 2020

M.Govindaraju

... Petitioner

.Vs.

1. The National Council for Teacher Education (NCTE),
The Southern Regional Committee,
No.G-7, Sector 10, Dwaraka,
New Delhi - 110 075.
2. The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Koil Street,
Karapakkam, Chennai 600 097.
3. The Secretary,
Sri Muthukumaran Educational Trust,
No.641/61, Ramasamy Salai,
K.K.Nagar, Chennai 600 078
4. The Principal,
Sri Muthukumaran College of Education,
Chikkrayapuram, Kundrathur Road,
Near Mangadu, Chennai 600 069.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records of the third respondent relating to the impugned orders dated 15.10.2019 (two letter), 30.10.2019 and 11.12.2019 and to quash the same as illegal and consequently, direct the 3rd and 4th respondent to provide / furnish relevant documents to the petitioner and to pay two month salary of September and October 2019 and settle the service benefits and issue the reliving order of the petitioner within time frame.

For Petitioner : Mr.R.Y.George Williams

ORDER

This writ petition has been filed challenging the orders passed by the 4th respondent college.

2. It is seen from records that the petitioner was working as Principal in the 4th respondent college. A charge memo came to be issued against the petitioner on the ground of mis-appropriation of funds. Ultimately, it ended up with a punishment and the petitioner was directed to refund the sum of Rs.8,89,000/-, which is alleged to be the amount that was mis-appropriated by the petitioner in his capacity as a principal of the 4th respondent college. This order has become a subject matter of challenge in the present writ petition.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. In the considered view of this Court, the petitioner has an effective and alternative remedy under the Private Colleges Regulations Act and rules by filing an appeal before the Competent Authority. Section 20 of the Act r/w Rule 14 of the rules specifically provides that an appeal can be filed against the order or punishment imposed before the Director of Collegiate Education. Without this remedy being exhausted, the petitioner cannot directly approach this Court by filing a writ petition. This Court cannot exercise its jurisdiction under Article 226 of Constitution of India, where the respondent concerned is a private college and the matter involves a contract of service. The Hon'ble Supreme Court in Federal Bank Ltd., Vs. Sagar Thomas and others reported in 2003 10 SCC 733 has categorically held that the contract of personal service is not generally amenable to writ jurisdiction. This is the reason why the statute itself provides for an appeal. Therefore, the petitioner has to necessarily avail the Appellate remedy before the concerned authority.

5. This writ petition is dismissed and liberty is granted to the petitioner to avail the alternative remedy in accordance with law. The Appellate Authority shall entertain the appeal without rejecting the same on the ground of limitation and the Appeal shall be dealt with on its own merits and in accordance with law. The petitioner shall file the appeal, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The National Council for Teacher Education (NCTE),
The Southern Regional Committee,
No.G-7, Sector 10, Dwaraka,
New Delhi - 110 075.

2.The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Koil Street,
Karapakkam, Chennai 600 097.

3.The Secretary,
Sri Muthukumaran Educational Trust,
No.641/61, Ramasamy Salai,
K.K.Nagar, Chennai 600 078

+1cc to Mr.R.Y.George Williams, Advocate SR.7847

W.P.No.2243 of 2020

GP(CO)
CB(10/03/2020)



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