

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31150 of 2015

and

M.P. No. 1 of 2015

Mallika Chandran

... Petitioner

-vs-

1. Tamil Nadu State Information Commission
Rep. by State Information Commissioner,
No. 2, Thyagaraya Salai,
Eldams Road, Teynampet,
Chennai - 600 018.

2. The Public Information Officer-cum-Assistant Registrar,
Madras University, Chepauk,
Chennai - 600 005.

3. Kala

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the First Respondent relating to the impugned order dated 07.08.2015 bearing Ref. No. 56498/re-enquiry/D/2013 (26890/D/2014) (MP 4999/D/2015) and quash the same in as much as the directions issued against the Petitioner for initiation of the disciplinary proceedings.

For Petitioner : Mr. D. Bharatha Chakravarthy
for M/s. Sai Bharath and Ilan

For Respondents: Mr. Niranjan Rajagopalan,
Standing Counsel (for R1)

Mr. Stalin Abhimanyu (for R2)

O R D E R
(through video conference)

Heard Mr. D. Bharatha Chakravarthy, Learned Counsel for the Petitioner, Mr. Niranjan Rajagopalan, Learned Standing Counsel

Page numbers

for the First Respondent and Mr. Stalin Abhimanyu, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent had made a representation dated 14.07.2014 to the Hon'ble Governor of Tamil Nadu stating that Provisional Certificate for completing B.A (Tamil) course had not been issued either by the College, viz., C.Kandasamy Naidu Arts College for Women, Cuddalore (hereinafter referred to as the 'College' for short), where she had undergone the course of study or the Second Respondent, viz., University of Madras, which awards the degree. The said representation had been forwarded to the First Respondent, who had treated the same as a complaint under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act' for short) and called upon the Public Information Officer of that College and the Second Respondent to submit their response in that regard. Since there was no appearance by the Public Information Officer of the College on the hearing on 19.01.2015, the First Respondent had directed the Second Respondent to conduct inspection in the College so as to ascertain whether the certificate of the Third Respondent had been received and further called upon the Public Information Officer of the College to show cause why action should not be taken for non-appearance on that date, apart from levying penalty under Section 20(1) of the Act and directing initiation of the disciplinary proceedings under Section 20(2) of Act.

3. It appears that subsequently, the required certificates of the Third Respondent had been delivered to her under written acknowledgement and she had also submitted a letter dated 04.08.2015 informing that she was not pressing her complaint before the First Respondent. The Petitioner, who was at that time functioning as the Principal of the College, had engaged an Advocate to represent her during the enquiry fixed on 07.08.2015 before the First Respondent. However, the First Respondent refused to take cognizance of the appearance of the Advocate appearing on behalf of that hearing stating that such practice was not permitted and proceeded to pass orders levying penalty under Section 20(1) of the Act and directing disciplinary proceedings against the Petitioner under Section 20(2) of the Act. Aggrieved thereby, the Petitioner has filed this Writ Petition challenged the order passed by the First Respondent.

4. Having due regard to the fact that the Petitioner had appeared before the First Respondent on the hearing on 07.08.2015 through Advocate, though such practice was not permitted, this Court is of the considered view that it would

Page numbers

sub-serve interests of natural justice, if another opportunity is provided before passing any order entailing civil consequences to her.

5. In that view of the matter, the impugned order No. 56498/re-enquiry/D/2013 (26890/D/2014) (MP 4999/D/2015) dated 07.08.2015 passed by the First Respondent is set aside and the matter is remitted before the First Respondent for hearing on 03.12.2020, when the Petitioner and the Second and Third Respondents shall appear on that date without fail. If the First Respondent is not in a position to take up the matter for hearing on that date, it shall inform to all parties concerned of the date of hearing to which it is adjourned in the prescribed manner. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or otherwise on the merits of the contentions raised by the Petitioner. The First Respondent shall afford full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice and shall pass reasoned orders dealing with each of the contentions raised by the parties on merits and in accordance with law and communicate the decision taken to them under written acknowledgment.

6. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vjt/dm

To

1.State Information Commissioner,
Tamil Nadu State Information Commission.
No. 2, Thyagaraya Salai,
Eldams Road, Teynampet,
Chennai - 600 018.

2.The Public Information Officer-cum-Assistant Registrar,
Madras University, Chepauk,
Chennai - 600 005.

Page numbers

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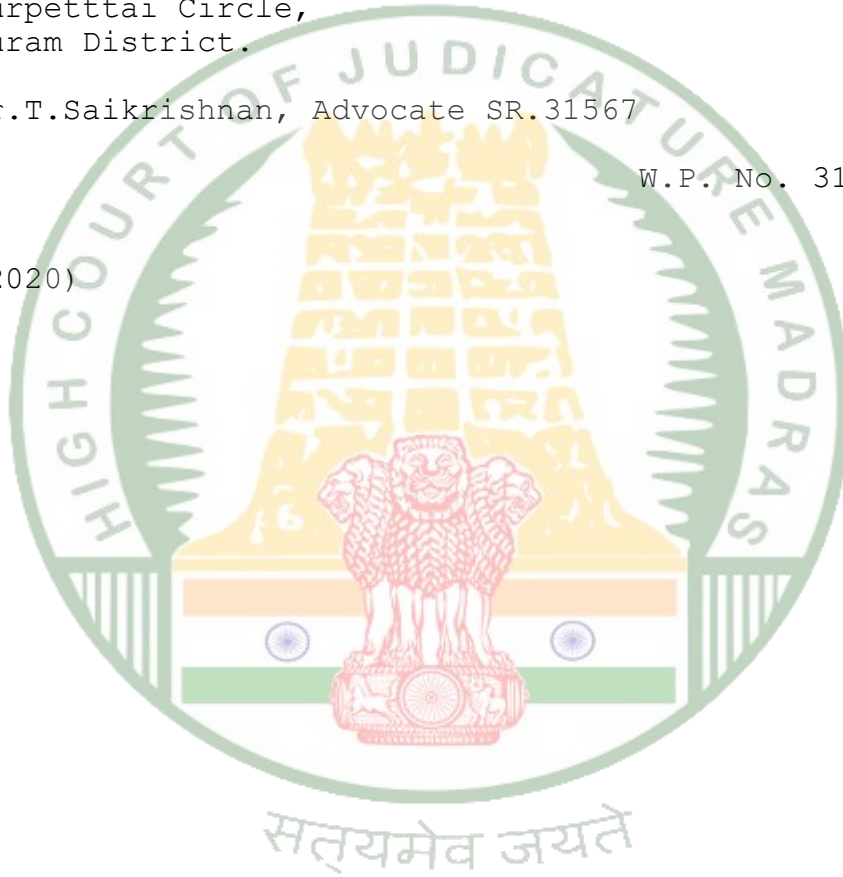
1.Mallika Chandran
Wife of Chandran
Aged about 54 years 54 years, residing at,
No. 3/13 Govindasamy Nagar,
Manjakuppam,
Cuddalore.

2.Kala
D/o Thirugnanam
Palli Post,
Ulundhurpetttai Circle,
Villupuram District.

+1cc to Mr.T.Saikrishnan, Advocate SR.31567

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CB(29/10/2020)



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Page numbers