

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE
AND
The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.971 of 2020
and CMP No.11821 of 2020

The Principal Secretary/Member Secretary,
Sports Development Authority of Tamil Nadu,
Periyar EVR Road, Nehru Park,
Chennai - 600 084 ... Appellant/Respondent/
Respondent

-vs-

Dr.A. Jayachitra ... Respondent/Petitioner/
Writ Petitioner

Appeal filed under Clause 15 of the Letters Patent against
the order dated 07.09.2020 passed in W.P.M.P.No.15026 of 2020
in W.P.No.12252 of 2020 on the file of this Court.

Prayer in WP No.12252 of 2020: Writ Petition praying this court
to issue a writ of Certiorari, calling for the records leading
to impugned order dated 25.08.2020 in proceedings
no.192/A01/2020 of the respondent and quash the same in so far
as the petitioner is concerned.

For Appellant : Mrs.Narmatha Sampath
For Respondent : Mr.Vijayashankar

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned Additional Advocate General for the appellant.

2. We had summoned the records of two writ petitions viz.,
W.P.No.11080 of 2020 (R.Geetha vs Principal Secretary) and
W.P.No.12252 of 2020 (Dr.A. Jayachithra vs Principal Secretary).
We had perused the same and we also called upon the learned
Additional Advocate General to bring on record the proceedings
dated 27.07.2020 of the Internal Complaints Committee.

3. The same has been filed on record. Learned Additional Advocate General contends that counter affidavit and vacate stay applications in both the writ petitions have been filed and therefore, the compliance or otherwise of the interim orders at this stage cannot be compelled without the adjudication of the stand taken on behalf of the appellant, particularly, in the background when the learned Single Judge has entertained one of the writ petitions on the ground of malafide being writ large.

4. Learned Additional Advocate General submits that it is true that malice in law and malice in fact are two different things, but, both are required to be established after exchange of pleadings upon which a determined order deserves to be passed before crystalising an opinion on malice.

5. It is correct that actual malice and legal malice have to be determined on the basis of the principles that have been laid down by the Apex Court and therefore, in our considered opinion, without prolonging the matter any further, it would be more appropriate that the writ petitions itself, on exchange of pleadings, are disposed of as it is the case of the appellant that they have already filed vacate stay applications and counter affidavit.

6. It is also open to the other writ petitioners to file their response thereto and upon completion of pleadings, the matter can be disposed of by the learned Single Judge.

7. We therefore dispose of this writ appeal with a request to the learned Single Judge that in order to settle the issue and keeping in view the nature of controversy raised, it would be appropriate that the matter is determined appropriately after considering the rival claims at the convenience of the learned Single Judge.

8. The writ appeal is disposed of with the said observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

+lcc to Mr.I.Sathish, Advocate, S.R.No.35701

W.A.No.971 of 2020

SRA(CO)
RV(03/12/2020)