

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.3451 of 2021

and

WMP.No.3953 of 2021

D.S.Dhanaraj
S/o.M.Sarangapani

... Petitioner

Vs.

1. State, represented by Deputy Superintendent of Police
Vigilance and Anti Corruption Department
Kanchipuram

2. The Director
Backward Classes Department
Chepauk, Chennai-5.

3. The District Backward Classes and MBC
Minority Welfare Officer,
Kanchipuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India to issue a writ of Certiorari or any other
writ or order or direction in the nature of writ, calling for
the records relating to the first respondent vide FIR No.6 of
2020 dated 04.11.2020 and to quash the same.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.T.Shunmuga Rajeshwaran
Government Advocate (Crl. Side)

O R D E R

(This case has been heard through video conference)

This Writ Petition has been filed seeking to call for
records relating to the first respondent vide F.I.R.No.6 of 2020
dated 04.11.2020 and to quash the same.

2. The brief facts of the case in F.I.R.No.6 of 2020 as per the defacto complainant viz., Kalaiselvan is that the petitioner/Dhanaraj/A1 was working as a Secondary Grade Warden in the Government Boys School Hostel, Selvimeedu, Kancheepuram District from the period 24.07.2010 to 31.01.2020. One R.Gopalan/A2 was working as a District Backward Classes and Minority Welfare Officer, Kancheepuram from 10.05.2010 to 30.09.2010 and one Senthil Kumar/A3 was working as a District Employment Officer, Kancheepuram from the period 01.02.2008 to 30.12.2010 and therefore, the accused A1 to A3 fall within the definition of 2(c) of Prevention of Corruption Act, 1988. A1/D.S.Dhanraj was enlisted in the Government service as Secondary Grade Warden in the Government Boys School Hostel, Selviamedu, Kanchipuram District in the year 2010 by furnishing fake transfer certificate (D.T.E.- II year regular) bearing certificate No.138/2000 with registration No.000295, Serial No.038/2002 dated 24.7.2002 as if, it was issued by the Government of Uttar Pradesh. Further, the petitioner / accused had also produced another fake certificate as if, he had completed his Diploma in Teachers Education (D.T.E.) (Regular) with Roll No.000295 and Enrollment No.E2274, dated 24th July 2002 at Indira Gandhi Teachers Training College, Mahalakshmiipuram (Nagapura), Bangalore-86 during the year 2002 and the same was sent for verification by Tmt.V.Malathi, the Former District Backward Classes and Minority Welfare Officer, Kanchipuram addressed to the Karnataka Secondary Education Examination Board, Bangalore, regarding the genuinity of the educational certificates issued by them. In turn, the Secretary, Karnataka Secondary Education Examination Board, Bangalore, in their reply letter addressed the District Backward Classes and Minority Welfare Officer, Kanchipuram, has stated that there is no such college named Indira Gandhi Teacher's Training College in Bangalore and the certificates are not concerned to their office and that the same was not issued by them. In this regard, no action has been taken by the department against the petitioner/ accused. From the above act, it is clear that A3 / Senthil Kumar, District Employment Officer, Kanchipuram. had facilitated the petitioner/A1 by recommending his name to the appointing authority/R.Gopalan/A2, District Backward Classes and Minority Welfare Officer, Kanchipuram, to enter into the Government services and that the then appointing authority/A2 had not verified the genuinity of the said educational documents and had colluded with A1 by appointing him in the Government services, thus causing the Government a huge monetary loss since his inception into the Government services i.e. from the year 2010. Further, the then appointing authority/A2, District Backward Classes and Minority Welfare Officer, Kanchipuram, had also not applied his mind in finding

out the authenticity of A1 and his credentials and failed in discharging his duties in a fair manner, thus facilitating the A1 to enter into the Government services through the back door. Based on the complaint, a regular case was registered against the petitioner/accused and other accused for offences under section 465, 466, 468, 471 read with 109 IPC and 13 (2) read with 13(1)(d) of the Prevention of Corruption Act 1988 against which the present petition has been filed by the petitioner/A1 seeking to quash the FIR.

3. The learned Counsel for the petitioner would submit that the petitioner has secured diploma in Teacher's Education in a regular course at Bhartiya Shiksha Parishad, Uttar Pradesh and the petitioner had written the examinations at Indira Gandhi Teachers Training College, Bangalore, his enrollment number issued by the Bhartiya Shiksha Parishad, Uttar Pradesh was that E-2274/2002 and the Roll Number for the first year was No.000560 and the Roll Number for the final year was No.000295 and both the examinations were written at the Indira Gandhi Teachers Training College, Bangalore, and if all the authorities have to verify the genuinity of the certificates, the genuineness have to be ascertained from the Bhartiya Shiksha Parishad at Uttar Pradesh and not at Bangalore since, Indira Gandhi Teacher's Training College at Bangalore was only the examination Center and that they have not issued the certificates. Whereas, the authorities have sent the request to the examination Centre and based on the letter sent by the authorities from the examination Centre, a case has been registered thereby, the further proceedings is nothing but mere abuse of process of law. He would further submit that the petitioner has ample materials to show that the diploma certificate issued to him is a genuine one.

4. Per contra the learned Government Advocate (Crl. Side) would submit that the petitioner has joined as a Secondary Grade Warden in the Government Boys School Hostel, Selvimeedu, Kancheepuram District, run by the Backward Classes Department and the appointment was made by A2 and A3 who are respectively the District Backward Classes and Minority Welfare Officer and District Employment Officer, Kanchipuram. At the time of joining the employment, the petitioner had produced fake educational certificates and A2 and A3 knowing it fully well that the educational certificates produced by the petitioner are fake, have appointed him for extraneous consideration thereby, they have caused huge monetary loss to the Government from the date of appointment of A1. He would further submit that the investigation is conducted after obtaining appropriate permission from the authorities and that the investigation is at the preliminary stage. He would further submit that though, the

reply had been sent by the examination Centre, Bengaluru, a proper investigation has to be conducted with regard to the certificates furnished by the petitioner. A preliminary enquiry had been conducted and finding that there are sufficient materials pointing out suspicion with regard to the certificates furnished by the petitioner, a regular case has been registered and now at the initial stage of proceedings, the case cannot be quashed and this Court cannot conduct a detailed enquiry or a trial to find out the genuinity of the certificate in a writ petition. He would further submit that the then District Backward Classes and Minority Welfare Officer had sent a letter to the Karnataka Secondary Educational Examination Board to verify about the genuinity of the certificate by letter dated 10-12-2018 and the Karnataka Secondary Educational Examination Board, Malleshwaram, Bangalore, has sent a reply dated 07.01.2019 stating that there is no such named college in Bangalore.

5. At this juncture learned counsel for the petitioner would submit that the petitioner had attended the examination conducted by Bhartiya Shiksha Parishad, Uttar Pradesh during the year 2001 and 2002 and there is every possibility of the Centre or the Institution where the petitioner was sent for examination being closed and that they cannot now rely on the letter sent by the Karnataka State Educational Board stating that there is no such institution in Bangalore.

6. In reply, the learned government Public Prosecutor (Crl. Side) would submit that the petitioner has also submitted various other fake certificates at the time of employment and one such certificate is the Transfer Certificate bearing Certificate No.138/2000 with a registration No.000295 dated 24.07.2002 and a due enquiry has been conducted with regard to the certificates produced by the petitioner and he would reiterate that the FIR cannot be quashed at this stage.

7. Heard the learned Counsel and perused the materials on record.

8. In this case, after conducting a preliminary enquiry the respondent have registered the case in respect of the complaint of furnishing fake certificates. If only the investigation is allowed to go further and the certificates are verified, the respondent could arrive at a conclusion with regard to the genuinity of the certificates. Thereby, this court is not inclined to quash the FIR at this stage.

9. Accordingly, this Writ Petition stands dismissed. Consecutively, connected Miscellaneous Petition is closed. No costs.

10. Further, the respondent is also directed to verify about the genuinity of the certificate with the Bhartiya Shiksha Parishad, Uttar Pradesh which is alleged to have issued the certificates to the petitioner rather than inquiring with the examination Centre at Bangalore where the petitioner claims to have written the examinations.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Superintendent of Police,
Vigilance and Anti Corruption Department,
Kanchipuram.
2. The Director,
Backward Classes Department,
Chepauk, Chennai-5.
3. The District Backward Classes and MBC,
Minority Welfare Officer,
Kanchipuram.
4. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.S.Vijayakumar, Advocate Sr.17900

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and
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