

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM:

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.Nos.1059, 1063 to 1065, 1069 of 2020

Primrose School,
rep. by Administrative Principal,
Principal
No.63, Gundusalai,
Oulgaret,
Puducherry ... Appellant/1st Respondent in all Writ Appeals

Vs

1.K.Veerappan ... 1st respondent in
W.A.No.1059 of 2020

1.D.Moganadasse ... 1st respondent in
W.A.No.1064 of 2020

1.L.Dominic Xavier ... 1st respondent in
W.A.No.1063 of 2020

1.S.P.Singaravel ... 1st respondent in
W.A.No.1065 of 2020

1.M.Senthil Kumar ... 1st respondent in
W.A.No.1069 of 2020

2.The Director of School Education,
Government of Puducherry, Puducherry

3.The Secretary, Council for the
Indian School Certificate Examinations
Pragati House, First Floor, 47-48 Nehru Place,
New Delhi 100019. ...2nd and 3rd Respondents in W.A.No.1059,
1063 to 1065, 1069 of 2020

Writ Appeal filed under Clause 15 of the Letter Patent
against the order passed by this Court dated 11.03.2020 in WMP
Nos.7234, 7222, 7224, 7226 and 7228 of 2020 in W.P.Nos.6159,
6161, 6162, 6163 and 6165 of 2020

Writ Petitions under Article 226 of the Constitution of India praying that in the circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a Writ of Mandamus

1.WP No.6159 of 2020:

To call for the records of the 2nd respondent with No.Nil dated 29.02.2020 terminating the services of the petitioner quash the same.

2) WP No.6161 of 2020:

To call for the records of the 2nd respondent with No.Nil dated 29.02.2020 terminating the services of the petitioner quash the same.

3) WP No.6162 of 2020:

To call for the records of the 2nd respondent with No.Nil dated 29.02.2020 terminating the services of the petitioner quash the same.

4) WP No.6163 of 2020:

To call for the records of the 2nd respondent with No.Nil dated 29.02.2020 terminating the services of the petitioner quash the same.

5) WP No.6165 of 2020:

To call for the records of the 2nd respondent with No.Nil dated 29.02.2020 terminating the services of the petitioner quash the same.

6) WMP No.7234 of 2020:

To Stay the impugned Order with No.Nil dated 29.02.2020

7) WMP No.7222 of 2020: सत्यमेव जयते

To Stay the impugned Order with No.Nil dated 29.02.2020

8) WMP No.7224 of 2020:

To Stay the impugned Order with No.Nil dated 29.02.2020

9) WMP No.7226 of 2020:

To Stay the impugned Order with No.Nil dated 29.02.2020

10) WMP No.7228 of 2020:

To Stay the impugned Order with No.Nil dated 29.02.2020 respectively

For Appellant
in all Cases : Mr.C.Vigneswaran

For Respondents
in all Cases : Mr.Ajaykumar,
for 1st respondent

Mr.Syed Mustafa,
for respondents 2 and 3

J U D G M E N T

(Delivered by The Hon'ble Chief Justice)

These five appeals arise out of similar interim orders passed by the Single Bench, in effect restraining orders of termination of service passed by the appellant-school.

2. There is no dispute that the appellant is an unaided private school operating in Puducherry. It also appears to be the undisputed position that the letters of appointment given by the appellant to the writ petitioners while confirming their appointments or inducting them into service clearly made out that the employees had to give notice of three months before leaving, but the employer was entitled to terminate the services without notice, if the performance of the employee was found to be unsatisfactory. The appellant maintains that if such was the condition of appointment in each case, it was for the employer to terminate the services of the employees and no restriction could be placed on the employer in implementing its decision.

3. The respondent-writ petitioners refer to the Pondicherry School Education Rules, 1996, framed in exercise of the powers conferred under Section 49 of the Pondicherry School Education Act, 1987. Rule 51 of the said Rules of 1996 has been made applicable to employees of recognized private schools, whether aided or not. The writ petitioners contend that in the light of such rules, unaided private schools cannot take the law into their own hands and have to adhere to the procedure spelt out by the rules before terminating the services of any employee.

4. This not such an open and shut case where merely because a private unaided school has appointed an employee on contractual basis or at its will, it must be said that the employer would be entitled to terminate the services at any point of time without reference to anything else. There is a set of rules staring the appellant in the face and, in the circumstances, the impugned orders appear to be founded on the rules applied by the Union Territory of Puducherry to unaided but recognized schools.

5. For the reasons aforesaid, the interim orders impugned in the appeals do not call for any interference at this stage. It is made clear that the present order is passed without prejudice to the rights and contentions of the parties and no inference can be drawn therefrom that the impugned order is justified or otherwise.

6. It will be open to the parties to request the relevant Bench to take up the matters as expeditiously as the business of such Bench would permit. The matters would be decided by the relevant Bench completely uninfluenced by the observations herein.

7. W.A.Nos.1059, 1064, 1063, 1065, 1069 of 2020 are disposed of without any order as to costs. As a consequence, C.M.P.Nos.12961, 12987, 13005, 12980, 12986 of 2020 are disposed of.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Director of School Education,
Government of Puducherry,
Puducherry.

2.The Secretary, Council for the
Indian School Certificate Examinations
Pragati House, First Floor,
47-48 Nehru Place,
New Delhi 100019.

+1cc to the Government Pleader Sr.5702

+5cc to Mr.V.Ajaya Kumar, Advocate Sr.5340 to 4344

W.A.Nos.1059, 1064, 1063,
1065, 1069 of 2020

jp[col]
srg 25/02/2021