



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.04.2021

DELIVERED ON : 29.07.2021

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P. (MD)No.2929 of 2021

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P.Dhanapandy

: Petitioner

Vs.

- 1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N.Road,
Alandur, Chennai - 600 016.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Chief Education Officer,
Theni District, Theni.
- 4.The District Education Officer,
Periyakulam, Theni.
- 5.The Block Education Officer,
Office of the Block Education Officer,
Periyakulam, Theni.
- 6.The Secretary,
Sri Saraswathi Middle School,Vadakarai,
Periyakulam, Theni.
- 7.M.Raja,
The Secretary, Sri Saraswathi Middle School,
Vadakarai,Periyakulam, Theni.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to transfer investigation of the petitioner's complaint, dated 18.01.2021 from the file of the first respondent to some other agency against the respondents 3 to 7 within the period as stipulated by this Court.

For Petitioner	: Mr.H.Haja Mohideen
For R1	: Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R2 to R5	: Mrs.S.Srimathi Special Government Pleader
For R6 and R7	: Mr.J.Thirumalai Venkatesan



ORDER

This Criminal Original Petition is filed seeking for direction to transfer the investigation of the petitioner's complaint, dated 18.01.2021 from the file of the first respondent to some other agency against the respondents 3 to 7.

2.Heard Mr.Haja Mohideen, learned Counsel for the Petitioner, Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the 1st Respondent, Mrs.S.Srimathy, learned Special Government Pleader appearing for the Respondents 2 to 5 and Mr.J.Thirumalai Venkatesan, learned Counsel for the Respondents 6 and 7.

3.Mr.Haja Mohideen, learned Counsel for the petitioner submitted that the 6th Respondent School has been granted recognition by the Government of Tamil Nadu. While so, the 7th respondent, the Secretary of the School had presurising the teachers to include the names of students, who are not regular students of the school, so as to receive funds from the Government, thereby, he is indulged in antisocial activities. Therefore, the Petitioner had filed a complaint to the Directorate of Vigilance and Anti Corruption to enquire into the matter. Since no action has been taken on the complaint preferred by the Petitioner, the Petitioner has approached this Court for transfer of the investigation from the file of the first respondent to some other agency against the respondents 3 to 7.

4.In the counter affidavit filed by the 1st Respondent, it is stated that the Directorate of Vigilance and Anti Corruption does not have the power to conduct investigation into the alleged offences or lapses committed by the 7th respondent. If any petitions of similar nature are received by the Directorate of Vigilance and Anti Corruption, it is their duty to forward such petitions to the superior officers of the department concerned.

5.Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor pointed out that the Directorate of Vigilance and Anti Corruption does not have the power to investigate any internal affairs of the aided school or private educational institutions. The petition is a vexed petition. He also relied on Rule 14 of Directorate of Vigilance and Anti Corruption Manual issued by the Government of Tamil Nadu vide G.O.(3D)No.2, Personal and Administrative Reforms (Personnel-N) Department, dated 06.01.1993, which reads as follows:

"14.Nature of Enquiries/Investigations

The Directorate of Vigilance and Anti-Corruption undertakes enquiries/investigations into complaints/information about specific acts bribery or corruption and allied malpractices in the



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exercise of official authority by Public Servants under the control of the State Government and also employees of Public Undertakings, Corporations set up by the State Government. Usually, the first enquiry into a complaint/information is in the nature of a Preliminary Enquiry. If the Preliminary Enquiry discloses material which merits an open probe, a Detailed Enquiry is taken up. If the material thrown up in a Preliminary Enquiry or a Detailed Enquiry makes out a prima facie case for criminal prosecution, a Regular case is registered under Section 154 of the Code of Criminal Procedure, 1973, and investigation taken up in terms of relevant provisions of the Code of Criminal Procedure, 1973. When specific information is received that a particular Public Servant is demanding money for discharge of his official duty in a specified instance. A "Trap" is also attempted."

6.As per the counter of the 4th respondent, who filed the counter on behalf of respondents, 2, 3 and 5, this petition had been filed making allegations against the 6th and 7th respondents. As per the contention of the respondents 2 to 5, if there is any lapses found in the management of the educational institution, then as per the Tamil Nadu Private School (Regulation), Act 1973 and Tamil Nadu Private School (Regulation), Rules, 1974, the educational authorities concerned is empowered to take necessary legal action known to law. It is also stated that the sister of the petitioner, Vimala was working as Secondary Grade Teacher in the School run by 6th and 7th respondents. The management of the School had already initiated disciplinary proceedings as against Vimala and she placed under suspension in the proceedings of the 6th respondent Management in Letter No.48/2020, dated 26.08.2020. The disciplinary proceedings is still pending. Challenging the suspension order, the petitioner's sister Vimala had preferred a Writ Petition before this Court in W.P.(MD)No.10897 of 2020 and the Writ Petition is still pending. They were sending petitions one after another against the 6th respondent. The 4th respondent had conducted enquiry in the School. After conducting enquiry, the enquiry report had been forwarded to the second respondent. The educational authorities had already taken action. The petitioner has no right seeking to transfer the investigation. If at all there are lapses in the school run by the 6th and 7th respondents, it is for the educational authorities to conduct the enquiry and to initiate appropriate action. The petitioner cannot seek direction from this Court to the Directorate of Vigilance and Anti Corruption to register a case and conduct an enquiry or investigation into lapses of a private school or aided school.



7.As per the submissions of the learned Additional Public Prosecutor that the Vigilance manual is clear that only in Government Department, the Directorate of Vigilance and Anti Corruption can conduct enquiries or investigation and not in a private aided School. The grievance of the petitioner that the first respondent failed to initiate action, therefore, he seeks transfer of investigation cannot at all be justified. The Petitioner had sent complaint and the respondents 2 to 5 had conducted enquiry and forwarded the enquiry to the Government for appropriate action.

8.Considering the status of the 6th Respondent School as a private aided School run by Trust, the Respondents 2 to 4 alone can conduct enquiry and initiate action. As per the Vigilance Manual, the Directorate of Vigilance and Anti Corruption cannot conduct investigation in matters of private aided Educational Institution with the 6th Respondent. In the light of the above discussion, the contention of the petitioner seeking investigation by another agency is not acceptable and reasonable. At this stage, the contention of the Petitioner to seek transfer of the investigation to some other agency is ill conceived, unacceptable and unreasonable.

9.In the result, this Criminal Original Petition is dismissed, as not maintainable.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N.Road,
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2.The Director of School Education,
College Road, Chennai.

3.The Chief Education Officer,
Theni District, Theni.



4.The District Education Officer,
Periyakulam, Theni.

5.The Block Education Officer,
Office of the Block Education Officer,
Periyakulam, Theni.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P.(MD)No.2929 of 2021

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RK (09.08.2021) 5P 7C