



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.12.2021**

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.5399 of 2018

and

W.M.P. (MD) .Nos.5336, 5337 of 2018 and 4619 of 2020

D.N.Lakshmi

... Petitioner

vs.

1.The Director of Collegeiate Education,
College Road,
Nungambakkam,
Chennai 600 006.

2.The Joint Director of Collegiate Education,
Race Course Road,
Kajamalai,
Trichy 620 020.

3.Seethalakshmi Ramasamay College,
represented by the Secretary,
Seethalakshmi Ramasamy College,
Trichy 620 002.

4.R.Viswanathan (Superintendent),
Assistant,
Seethalakshmi Ramasamy College,
Trichy.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent Joint Director of Collegiate Education made in Na.Ka.0197/A3/2017, dated 15.11.2017 and the order of the third respondent Secretary dated 25.11.2017 and quashing the same and thereby directing the first respondent to allow the appeal dated 11.12.2017 and 19.02.2018 by directing the third respondent to appoint the petitioner Superintendent of the Seethalakshmi Ramasamy Collegey, Trichy with all attendant benefits, emoluments, salary inclosing of the 7th Pay Commission Revision.

For Petitioner	: Mr.Joseph Thatheus Jerome
For R1 & R2	: Mr.K.S.Selvaganesan Additional Government Pleader
For R3	: Mr.Raguvaran Gopalan
For R4	: No appearance



O R D E R

The challenge in this matter is to a charge memo dated 25.11.2017, issued by the Secretary of the Seethalakshmi Ramasamy College at Trichy. The petitioner is employed in R3 College as a Steno Typist since 06.04.1988. Though the challenge is on various grounds, the one that appeals is that the impugned charge memo is bereft of jurisdiction, in light of Section 14 of the Tamil Nadu Private Colleges (Regulation) Act 1976.

2. Section 14 sets out the functions of the College Committee constituted by the educational agency under the Act. Clause (3) thereby vests the power of initiation of disciplinary action against the teachers, in such College Committee. Thus, if at all disciplinary action ought to have been initiated as against the petitioner, it ought to have been by the College Committee and not by the Secretary.

3. No counter has been filed in this matter and rightly so seeing as learned counsel for the third respondent has no defence to the argument on assumption of jurisdiction.

4. That apart, a Full Bench of this Court in the case of *K.M.Valliapan vs. Joint Director of School Education* (2006 (4) CTC 471) has delved into the issue of initiation of disciplinary action as against the faculty in a college and at paragraph 12 hold as follows:

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12. The statutory provisions themselves contemplates certain powers as well as laid down certain procedures. Section 18(c) of the Act contemplates that the School Committee is empowered to take disciplinary action against the teachers and other employees of the private school. It is obvious that the essential features relating to disciplinary control vested with the School Committee, which is also envisaged in the contract entered into in Form VII -A, cannot be whittled down. Essential functions as to the decision to initiate any disciplinary proceedings, to frame charge, to consider finally the guilt or otherwise of the delinquent and to impose appropriate punishment are matters which are coming within the specific jurisdiction of the School Committee and such essential functions obviously cannot be delegated.

5. Thus, essential functions that include the decision to initiate disciplinary proceedings, framing of charges and consideration of guilt or otherwise of an alleged delinquent can only be done by the College Committee. The Secretary or other persons vested with Management can, at best, assist the College Committee in such activity and cannot initiate such action themselves, as has been done in the present case.



6. In light of the discussion as aforesaid, the impugned charge memo is liable to be quashed and I do so. This Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai 600 006.

2. The Joint Director of Collegiate Education,
Race Course Road,
Kajamalai,
Trichy 620 020.

+1 CC to M/s. JOSEPH THATHEUS JEROME, Advocate (SR-37153[F] dated 02/12/2021)

+1 CC to M/s. K. PRABHAKAR, Advocate (SR-37298[F] dated 03/12/2021)

+1 CC to M/s. SPL GP (SR-36973[F] dated 02/12/2021)

**ORDER MADE IN
W.P. (MD) .No.5399 of 2018
01.12.2021**

RS (28.01.2022) 3P-6C