



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.2911 of 2014

G.P.Johny Rani

... Petitioner

vs.

1.The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.

2.The Assistant Elementary Educational Officer,
Kovilpatti, Thoothukudi District.

3.Tamil Baptist Primary School,
represented by its Correspondent,
No.27, Ettayapuram Road,
Kovilpatti-628 501,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of termination, dated 08.02.2014, on the file of the Respondent No.3 and to quash the same as illegal and consequently to direct the Respondent No.3 to reinstate the petitioner in the post of Secondary Grade Teacher within the time stipulated by this Court.

For Petitioner	: Mr.G.Karthik
For R-1 and R-2	: Mr.R.Ragavendran
	Government Advocate (Civil Side)
For R-3	: Mr.T.Antony Arul Raj

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of termination, dated 08.02.2014, on the file of the third respondent and to quash the same as illegal and consequently to direct the third respondent to reinstate the petitioner in the post of Secondary Grade Teacher within the time stipulated by this Court.

2.The petitioner was appointed as a Secondary Grade Teacher in the third respondent School on 02.06.1999. The third respondent School is a Government Aided Minority Institution. The petitioner was transferred to Thonukal on 07.09.2012. The petitioner alleges torturous attitude of the Correspondent and has preferred a Police complaint and the Correspondent has given a counter complaint to the Police. The Police had attempted a compromise between the parties on 23.05.2013.



3. In the meanwhile, the petitioner was transferred to Ettayapuram School on 15.06.2013. However, the attitude of the Correspondent has not changed and he has removed the petitioner's relatives from the School Committee and also transferred some of his relatives to some other School. In the meanwhile, the third respondent has issued a show cause notice, dated 05.08.2013, alleging that the petitioner has violated the Rule 16(1)(8) and 16(2) of the Tamil Nadu Regularized Private Schools (Regulation) Rules, 1974, and the School Committee has decided to take action, vide Resolution, dated 29.05.2013.

4. The petitioner has submitted the explanation and an Enquiry Officer was appointed. The petitioner has filed a Writ Petition challenging the disciplinary proceedings in the W.P.(MD)No.15522 of 2013. However, the same was dismissed, vide order, dated 19.09.2013 and directed the petitioner to attend the enquiry proceedings. The petitioner alleges that the enquiry was not conducted in accordance with law and violated the principles of natural justice. An ex-parte order was passed and finally the petitioner was terminated on 08.02.2014.

5. Challenging the order of termination, dated 08.02.2014, the petitioner has filed the present Writ Petition. The first respondent has filed the counter affidavit but the third respondent has not filed any counter affidavit.

6. Heard Mr.G.Karthik, learned Counsel appearing for the petitioner, Mr.R.Ragavendran, learned Government Advocate appearing for first and second respondents and Mr.T.Antony Arul Raj, learned Counsel appearing for the third respondent.

7. The learned Counsel appearing for the third respondent submitted that the third respondent is a Minority Institution and the Judicial interference is limited. The third respondent also alleges that the petitioner has not cooperated for the enquiry and was trying to stop the enquiry by one way or the other and moreover, the allegations are very serious in nature.

8. On hearing the learned Counsels appearing on the either side and on perusing the records, it is evident that proper opportunity was not granted to the petitioner. Whenever, the petitioner attended the enquiry, either there will not be any Enquiry Officer or the enquiry would be adjourned without intimation to the petitioner. The relevant portion is given in paragraph 7 of the affidavit.

"7. I submit that as per the call letter for the preliminary enquiry on 30.09.2013 at the office of the 3rd respondent, I went in person and the enquiry officer was not available and later it was informed that the enquiry would be held on 30.10.2013 at the



law office of the enquiry officer, as he is a practicing lawyer, vide communication, dated 17.10.2013, for which I had stated that I was present for the previous enquiry on 30.09.2013 and that I could not attend the enquiry at the law office at Tirunelveli and requested for enquiry at Kovilpatti and accordingly the enquiry was adjourned to 16.11.2013 at the school office at Kovilpatti. And on 16.11.2013 I went to attend the enquiry on 16.11.2013 and no one was present for the enquiry. After waiting there up to 4.30 P.M. I have left the premise. I also took a photograph of the empty office arranged for the enquiry."

9. In the counter affidavit, the first respondent has not denied the said allegations of the petitioner. The third respondent has not chosen to file any counter affidavit refuting the said allegations. After a lapse of seven years, the third respondent cannot be allowed to file any counter and his silence can be taken that he has not denied the allegations stated in paragraph 7 of the affidavit.

10. At this point of time, the learned Counsel appearing for the petitioner submitted that there is a change in management.

11. Therefore, this Court is of the view that proper enquiry was not conducted and effective opportunity was not granted to the petitioner. Therefore, the impugned order is set aside and the case is remitted back to the third respondent to grant effective opportunity to the petitioner and proper enquiry shall be conducted.

12. The petitioner claims that the petitioner is out of service and no monetary benefits was granted to the petitioner. Since this Court has directed the respondents to conduct an enquiry within two months from the date of receipt of a copy of this order. The claim of monetary and service benefits shall be considered after completion of the enquiry. If the management delays to conduct an enquiry, the petitioner shall be eligible for monetary and service benefits after the lapse of two months, but two months period shall be calculated from the date of receipt of a copy of the order.

13. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



tmg/jbr

NoteIn 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 District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.
- 2.The Assistant Elementary Educational Officer,
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- 3.The Correspondent,
Tamil Baptist Primary School,
No.27, Ettayapuram Road,
Kovilpatti-628 501,
Thoothukudi District.

+1 CC to M/s.T.ANTOY ARUL RAJ, Advocate (SR-34318[F] dated 12/11/2021)

+1 CC to M/s.SPL.GP (SR-34108[F] dated 11/11/2021)

+1 CC to M/s.G.KARTHIK, Advocate (SR-34124[F] dated 11/11/2021)

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KB(26.11.2021) 4P 7C