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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No. 1009 of 2020
and
C.M.P.No.12368 of 2020

Dr.Debashis Chakraborty

... Appellant/Petitioner

-vs-

The Director,
Member of the Board of Governors,
Disciplinary Authority of the Board,
Institute of Technology-Madras,
Chennai-600 036.

... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the Order dated 16.09.2020 passed in Writ Petition No.9727/2020.

Prayer in WP.No.9727 of 2020:- Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned order passed by the respondent No.F.DIR/01/2020 dated 27.02.2020, quash the same.

For Appellant : Mr.M.V.Swaroop

For Respondent : Mr.Karthick Rajan

J U D G M E N T

S.VAIDYANATHAN, J.
and
MOHAMMED SHAFFIQ, J.

This Writ Appeal has been filed against the order passed by the learned Single Judge dated 16.09.2020 in W.P.No.9727 of 2020 by which the relief sought for by the writ petitioner was



rejected as not maintainable.

2. The Appellant/Writ Petitioner is an Associate Professor of Indian Institute of Technology, Madras. An allegation has been made against him for sexually harassing two Research Scholars and a Project Assistant for which departmental action has been initiated and thereafter, he was imposed with the punishment of stoppage of increment without cumulative effect for the period of two years by an order dated 27.02.2020. The order of punishment was questioned by filing a Writ Petition in W.P.No.9727 of 2020. The learned Single Judge, finding that the Appellant has got an alternative remedy of Appeal, dismissed the Writ Petition as not maintainable on 16.09.2020. Challenging the same, the present Writ Appeal is filed.

3. The learned counsel for the Appellant/Writ Petitioner submitted that the order of punishment dated 27.02.2020 was issued in gross violation of the fundamental rights and principles of nature justice, and the learned Single Judge, without considering the said aspect, observed that the Appellant/Writ Petitioner shall exhaust the Appeal remedy and thereafter, come to this Court. It is further submitted by the learned counsel for the Appellant/Writ Petitioner that the Appellate Authority is none other than the Hon'ble President of India.

4. The learned counsel appearing for the Respondent submitted that the Appellant/Writ Petitioner participated in the enquiry and due opportunity was given to him to respond to the allegations levelled against him by fixing a date convenient to him, on which date he has rendered evidence for more than two hours and on considering the oral and documentary evidence, the impugned order came to be passed.

5. Heard both sides. Perused the material on records.

6. A perusal of the order passed by the learned Single Judge would go to show that the Appellant/Writ Petitioner, without exhausting his Appeal remedy has straightaway approached this Court by way of Writ Petition and hence the Writ Petition was dismissed as not maintainable with liberty to the petitioner to workout his remedy by approaching the Appellate Authority. Further, the factual grounds raised by the Writ Petitioner needs to be considered by the Appellate Authority only.

7. In view of same, we find that the learned Single Judge has rightly dismissed the writ petition as not maintainable and the order of the learned Single Judge does not warrant any interference by this Court. In case, time to prefer Appeal has already expired, it is open to the Appellant/Writ Petitioner to



file an Appeal within thirty days from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

arr

To:

The Director,
Member of the Board of Governors,
Disciplinary Authority of the Board,
Institute of Technology-Madras,
Chennai-600 036.

+lcc to Mr.M.V.Swaroop, Advocate, S.R.No.8774

W.A.No. 1009 of 2020

GSM(CO)
SU(14/03/2022)