



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.4106 of 2022

and WMP No.3532 of 2022

WEB COPY

G.Joseph Jeyaseelan

... Petitioner

Vs.

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

2.The District Educational Officer,
Thallakulam 625 002
Madurai District.

3.The Block Development Officer-II
RMS Road, Madurai South
Madurai District.

4.The Secretary
Jeya Primary School
Munichalai Road
Madurai

5.C.Angelin

6.M.Shanthi

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the 2nd respondent District Educational Officer vide proceedings in Na.Ka.No.3257/A5/2021 dated 02.03.2022 (received on 03.03.2022) quash the same as illegal.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.Veera Kathiravan
Additional Advocate General assisted by
Mr.G.V.Vairam Santhosh for R1 to R3
Additional Government Pleader
Mr.M.Venkatesan for R4 & R5

ORDER

The order dated 02.03.2022 cancelling the deputation of two Teachers from Sundarammal Middle School is under challenge in the present writ petition.



2. The petitioner is the Headmaster of the School and also functioning as the Secretary of the educational agency under the provisions of the Act.

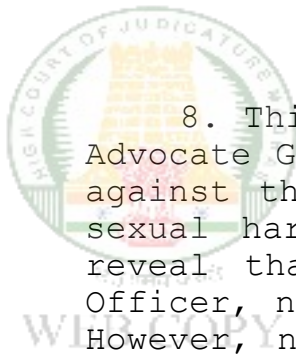
3. The petitioner contends that the school was established as a primary school in the year 1951 and upgraded as middle school in the year 1957. The petitioner is a recognized Government aided school. The school is imparting education to standards 1 to 8. Nearly about 114 students are studying in the school as of now. As per the current staff fixation settled by the District Educational Officer, the School is entitled to have seven teachers viz, one Headmaster, three B.T. Assistants and three Secondary Grade Teachers. However, only five Teachers are presently serving in the school including the Headmaster.

4. The petitioner states that four sanctioned posts became vacant due to the retirement of the Teachers. The school submitted necessary proposal for granting prior permission to fill up the posts in accordance with Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1978. No permission was granted and the school filed W.P.(MD) No.10454 of 2015 and the said writ petition is pending.

5. The grievance of the writ petitioner is that two teachers were originally deputed in the year 2019 and subsequently their deputations were recalled and those teachers were reposted to their parent school. In the said place, the respondents 5 and 6 were deputed to the petitioner school. The deputation of the respondents 5 and 6 were also cancelled through the impugned order and therefore, the petitioner is constrained to move the present writ petition.

6. The learned counsel for the petitioner made a submission that the cancellation of deputation of respondents 5 and 6 is arbitrary and will affect the interest of the students studying in the school.

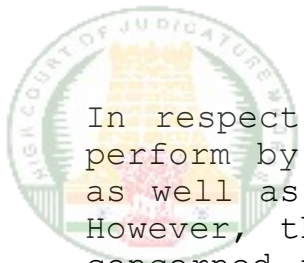
7. When the case was listed, the learned Additional Advocate General appeared in the matter and made certain serious allegations against the writ petitioner. The learned Additional Advocate General pointed out that there are frequent sexual harassment by the petitioner to the respondents 5 and 6. The respondents 5 and 6 sent representation to the District Educational Officer stating that they are subjected to harassment by the writ petitioner and further made a request to relieve them from the school and post in any other school. Considering the representation submitted by the respondents 5 and 6, the educational authorities cancelled the deputation order and posted them in other places.



8. This Court based on the submission of the learned Additional Advocate General could able to form an opinion that the allegations against the writ petitioner are serious in nature and relating to sexual harassment in work places. A perusal of the allegations reveal that it require further action. The District Educational Officer, no doubt, cancelled the deputation of respondents 5 and 6. However, not taken any further action on the allegations of sexual harassment. But this Court passed an interim order. Based on the interim order, a criminal case was registered against the writ petitioner in Crime No.5/2022 on 12.03.2022 under the provisions of the Indian Penal Code, Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Sexual Harassment for Women at Work Places (Prevention, Prohibition and Redressal) Act, 2013. It is brought to the notice of this Court that the Inspector of Police commenced the investigation and recorded the statement under Section 161 Cr.P.C. from the victims. Accordingly, the law is set in motion in respect of the allegations of sexual harassment against the writ petitioner.

9. The question arises regarding the further action to be continued. In fact, a criminal case was registered against the writ petitioner under the Sexual Harassment Act. The writ petitioner is functioning as the Headmaster and also as Secretary of the school. Thus, the question arises whether he will be a right person to be continued as the head of the institution. In this regard, the learned Additional Advocate General made a submission that appropriate action will be taken by following the procedures contemplated under the Act to protect the interest of the school as well as the staff and the children studying in the school. In this regard, the learned Additional Advocate General made a submission that the authorities will look into the matter and if necessary place the petitioner under suspension and issue appropriate orders through the Management or otherwise or by following the Act, as the case may be. It is made clear that the competent authority in such circumstances are bound to protect the interest of the Teachers and the students, who are all studying in the institutions. If the allegations against the Headmaster/Secretary/educational agency are of serious in nature and a criminal case has already been registered under the sexual offences Act, the interest of the students studying in the school is to be protected in all respects and therefore, the respondents are expected to act swiftly in this matter for taking all corrective measures to bring back discipline in the school for the purpose of imparting education peacefully to the children and provide an atmosphere for the staff to perform their duties in a peaceful manner.

10. The learned counsel for the petitioner submitted additional typed set of papers, wherein, he has relied on the legal notice sent by the petitioner to one Mr.T.V.Srinivasan, Block Educational Officer, Madurai South. Relying on the said legal notice issued by the learned counsel for the petitioner, it is contended that there



In respect of corruption allegations, it is for the petitioner to perform by taking up the allegations before the higher authorities as well as to the Vigilance Department, if he is decided to do so. However, the legal notice sent to the officer through the counsel concerned is not a proper procedure to be followed. In respect of the allegations of corruption, if the legal notice is issued by the counsel, the same would not be construed to be a proper procedure, as the official cannot reply in such a case. Contrarily the allegations are probed into by the competent authority in the manner known to law.

11. The learned Additional Advocate General made a submission that such legal notice are issued through the Advocates in order to threaten the public authority. This Court is of the opinion that in service jurisprudence, if any allegations of corruption is to be raised against the public officials, then it is to be raised in a proper manner before the authorities concerned and to the vigilance department, as the case may be. Contrarily it cannot be construed as a civil dispute for the purpose of issuing a lawyer notice and inviting a reply from the person against whom allegations of corruption is set out. Perusal of the legal notice reveals that what the petitioner could not able to achieve directly made an attempt to achieve it indirectly through the legal notice by setting out an allegation of corruption.

12. No doubt, the corruption allegations are serious in nature. If at all there is an allegation of corruption including the demand of bribe, the petitioner has to submit a proper complaint before the authorities concerned along with the proof, if any available or make a complaint to the Vigilance department for further action. This being the procedure to be followed, the legal notice through counsel in service jurisprudence may not be proper in all circumstances, except communications of notice regarding the pendency of the case or admission of the case or contempt notice regarding the violations of the orders of this Court.

13. As far as the order cancelling the deputation is concerned, the learned Additional Advocate General made a submission that all the educational authorities have already taken steps to fill up the posts in the interest of children and within a week, the post will be filled up through other Teachers to take classes for the students and to run the school administration peacefully. In respect of all further action, the learned Additional Advocate General ensured that the said action will also be initiated simultaneously as stated in the aforementioned paragraphs without any delay.

14. In view of the fact that the grievance of the writ petitioner to fill up the posts is also promised to be redressed by the authorities within a period of one week, regarding the allegations against the petitioner also ended with registration of



are required in the present writ petition.

15. Accordingly the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

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

2.The District Educational Officer,
Thallakulam 625 002
Madurai District.

3.The Block Development Officer-II
RMS Road, Madurai South
Madurai District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-12281[F] dated 15/03/2022)

+1 CC to M/s.SPL GP (SR-12186,SR-12519[F] dated 15/03/2022)

W.P. (MD)No.4106 of 2022

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RD(30.03.2022) 5P 6C