



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2022
CORAM
THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 9003 of 2021

and

W.M.P. (MD) Nos. 6780, 10036 and 10950 of 2021

WEB COPY

T.Manimehala,
Head of the Department,
Department of Information Technology,
Pope's College,
Sawyerpuram, Eral Taluk,
Tuticorin District.

... Petitioner

Vs.

1. The Director of Collegiate Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
2. The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.
3. Pope's College,
Represented by its Secretary,
Sawyerpuram, Eral Taluk,
Tuticorin District.
4. The Principal,
Pope's College,
Sawyerpuram, Eral Taluk,
Tuticorin District.
5. The Secretary,
Standing Committee on Higher Education,
CSI Tuticorin and Nazereth Diocese,
Tuticorin District.
6. Dr.R.Immanual,
The Principal, Pope's College,
Sawyerpuram, Eral Taluk,
Tuticorin District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned termination order dated 16.03.2021 on the file of the fourth respondent and quash the same and further directing the respondents to reinstate



the petitioner with continuity of service.

For Petitioner : Mr.R.Maheswaran

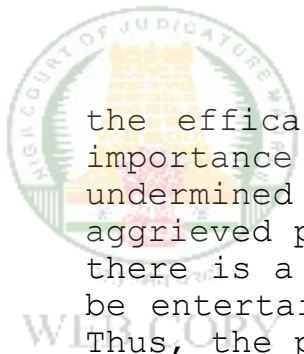
For Respondents: Mr.G.V.Vairam Santhosh
Addl. Govt. Pleader for R1 & R2
Mr.P.P.Alwin Balan for R3 to R5
No appearance for R6

O R D E R

The order of termination issued by the Management of the third respondent in proceedings dated 30.12.2019 is under challenge in the present Writ Petition.

2. The petitioner was discharging her duty as Head of the Department. On account of certain allegations, a charge memo was issued and after conducting the domestic enquiry, the petitioner was terminated from service. Admittedly, the Pope's College is an Autonomous College and a Private Institution. Therefore, the petitioner has to prefer an appeal under the Tamil Nadu Private Colleges (Regulation) Act, 1976. The Act contemplates appellate remedy before the Competent Authorities. Exhausting the appellate remedy is the rule for entertaining the Writ Petition. Thus, in normal circumstances, an aggrieved person has to approach the Appellate Authority for elaborate adjudication of disputed facts between the parties, more specifically, with reference to the documents and evidences. However, such an elaborate adjudication cannot be done by the High Court in a writ proceedings under Article 226 of the Constitution of India.

3. Disputed facts require examination and scrutinization of original documents, if necessary, oral evidences. Thus, the parties aggrieved must exhaust the appellate remedy under the Act. The power of judicial review of the High Court under Article 226 of the Constitution of India, is to ensure the process through which a decision is taken by the Competent Authority in consonance with the provisions of the Statute or Rules in force, but not the decision itself. Thus, the findings of the Appellate Authority would be a greater assistance to the High Court for the purpose of exercise of judicial review under Article 226 of the Constitution of India in an effective manner. In the event of assuming certain facts and circumstances merely based on the affidavit, if orders are passed, then there is a possibility of error, commission or omission which is not desirable. Thus, the legislation itself is intended for appellate remedy to test the correctness or otherwise of the order passed by the Original Authorities. When the legislative intention is unambiguous and the aggrieved persons are provided with an opportunity to redress their grievances, then such persons must be allowed to exhaust the same. Entertaining the Writ Petition will amount to denial of opportunity to the aggrieved person to exhaust



the efficacious remedy contemplated under the Act. Therefore, the importance of exhausting the alternate remedy at no circumstances be undermined by the High Court. The valuable opportunity to the aggrieved person need not be taken away in a routine manner. Only if there is a gross injustice established, then alone the writ needs to be entertained to deal with the extraordinary circumstances if any. Thus, the petitioner has to approach the Appellate Authority and the Tribunal, as the case may be for redressing her grievances.

4. In this view of the matter, the petitioner is at liberty to approach the Appellate Authority. In the event of approaching the Appellate Authority, such Authority shall consider the period during which the Writ Petition was pending before the High Court for condoning the delay if any and decide the issue on merits and in accordance with law as expeditiously as possible, since the petitioner has been imposed with major punishment of termination.

5. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

To

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

2. The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-11027[F] dated 10/03/2022)

+1 CC to M/s.SPL GP (SR-11163[F] dated 10/03/2022)

W.P. (MD) No. 9003 of 2021

and

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SVS (CO)

TR(31.03.2022) 3P 5C