



W.P(MD)No.12704 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12704 of 2022

and

W.M.P.(MD)Nos.9005, 9007, 10862 and 10863 of 2022

O.Ravi

... Petitioner

Vs

- 1.The Director of Collegiate Education,
Directorate of Collegiate Education,
E.V.K.Sampath Maligai,
College Road, Chennai.
- 2.The Regional Joint Director of Collegiate Education/
Officer For Direct Disbursement
of Salary to the Staffs of Usilampatti,
Pasumpon Muthuramalinga Thevar College,
Madurai Region, Madurai.
- 3.A.Jothirajan,
Associate Professor,
(Presently Principal in Charge)
Economics Department,
Pasumpon Muthuramalinga Thevar College,
Usilampatti, Madurai District.
- 4.Pandian,
Secretary and Correspondent,
Pasumpon Muthuramalinga Thevar College,
Usilampatti, Madurai District.

... Respondents



W.P(MD)No.12704 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings in Na.Ka.No.1502/Oo2/2021 dated 11.05.2022 and quash the same and consequently directing the Respondents 1 and 2 herein to permit the petitioner herein to continue his post as Principal (in-charge) of the Pasumpon Muthuralinga Thevar College, Usilampatti.

For Petitioner : Mr.Ramesh Venkatachalapathy

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader for R1 & R2.
Mr.G.Prabhu Rajadurai for R3.
No appearance for R4.

ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the respondents 1 and 2 and the learned counsel for the third respondent.

2.The writ petitioner was appointed on 07.03.1992 in Pasumpon Muthuramalinga Thevar College, Usilampatti as assistant professor. He became head of the department of maths department in the rank of associate professor. When vacancy arose in the post of principal, the petitioner was appointed as in-charge principal on 02.11.2020. By the impugned order dated 11.05.2022, the petitioner had been relieved of his responsibility as in-charge



W.P(MD)No.12704 of 2022

principal. It was further directed that he would continue to act as head of department of maths department in the rank of associate professor. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in affidavit filed in support of the writ petition. His primary contention is that the impugned order does have civil consequences. Since the petitioner was not put on notice before passing the impugned order, it is liable to be quashed. He relied on the decision reported in **(2012) 4 MLJ 841 (Dr.T.Sree Renga Raja v. Vice Chancellor, Anna University of Technology, Trichirapalli, Trichirapalli and Others)**.

4.The learned Special Government Pleader for the official respondents and the learned counsel for the third respondent submitted that the petitioner is facing a criminal case and that therefore he could not continue to function as in-charge principal. It was further contended that when the petitioner was first appointed on 02.11.2020, he was not under any cloud. The learned Special Government Pleader for the official respondents and the learned counsel for the third respondent strongly urged this Court to invoke the principle of useless formality. They pressed for dismissal of the writ petition.



W.P(MD)No.12704 of 2022

WEB COPY

5.I carefully considered the rival contentions and went through the materials on record. The conferment of in-charge principalship by itself does not confer any right on the incumbent. It is not a substantive post as such. The impugned order will not lead to any reduction of the petitioner's rank or pay. The only question that calls for consideration is whether the impugned is vitiated for not having complied with the principles of natural justice. There is no doubt that the decision reported in **(2012) 4 MLJ 841** does advance the proposition put forth by the learned counsel for the writ petitioner. In the said case also, the writ petitioner therein was made as in-charge principal and he was divested of the said responsibility by an order simpliciter. The order divesting the writ petitioner therein of the responsibility did not cast any stigma on him. Only from the averments in the counter affidavit, the Court came to the conclusion that the order came to be passed based on a complaint against him and hence, the Court concluded that the order was stigmatic in nature and consequently, bad in law as there was no sufficient compliance of the principles of natural justice. As rightly pointed out by the learned counsel for the third respondent, the order of divestment came to be passed because complaints were lodged against the petitioner therein regarding his conduct and performance as principal. Thus, the petitioner therein had scope for showing cause. In this



W.P(MD)No.12704 of 2022

case, the only point that arises for consideration is whether the petitioner herein does have a scope for showing cause. It is beyond dispute that the petitioner herein is figuring as the first accused in Crime No.16 of 2021 registered on the file of Vigilance and Anti-Corruption, Madurai for the offences under Section 109 IPC, Section 13(2) r/w. 13(1)(e) of Prevention of Corruption Act and Section 13(2) r/w. 13(1)(b) of Prevention of Corruption Act as amended by the Prevention of Corruption (Amendment) Act. My attention has been drawn to the decision reported in **(1996) 11 SCC 760 (Dr.Mahak Singh Vs. Chancellor, Ch.Charan Singh University and Others)**. The Hon'ble Supreme Court in the said case was also concerned with appointment of the respondent as in-charge principal. The unsuccessful staff appealed before the Hon'ble Supreme Court. The Hon'ble Supreme Court noted that the appellant was involved in a number of criminal cases and observed that when the question arises as who should be the acting principal of a degree college wherein apart from administrative duties, the principal being the head of the institution has to act as a model for the student, equity would tilt the balance against the appellant in view of his involvement in a serious criminal case. Since the appellant therein was under a cloud of a serious criminal charge, the Hon'ble Supreme Court decided the case against him.



W.P(MD)No.12704 of 2022

6.Of course, the petitioner herein is not facing any case of murder. But then, an allegation of possession of wealth disproportionate to known sources of income is definitely a serious one. A person who is facing a serious allegation cannot obviously be conferred with the responsibility of an in-charge principal of a college. Even if I quash the impugned order and remit the matter, still the petitioner cannot show cause. If the said FIR has been stayed or set aside, then of course it would be a different matter. That is not the case of the petitioner. Of course the learned counsel for the petitioner drew my attention to the order of the Hon'ble Division Bench dated 15.07.2022 in W.A.(MD)No.604 of 2022 involving the fourth respondent herein. A learned Judge of this Court had held that the fourth respondent cannot continue as secretary and correspondent of Pasumpon Muthuramalinga Thevar College, Usilampatti in view of his involvement in a vigilance case. The college as well as the fourth respondent herein filed W.A.(MD)No.825 of 2020. The Hon'ble Division Bench granted interim order on 16.09.2020 staying the order of the learned Single Judge. The Hon'ble Division Bench held that so long as the fourth respondent had not been found to be guilty after full trial, he cannot be restrained from continuing as the secretary and correspondent of the college. But there is one critical and crucial distinction between the position held by the writ petitioner and that of the fourth respondent. The writ petitioner herein is a



W.P(MD)No.12704 of 2022

teaching staff of the college. The fourth respondent herein is its democratically elected secretary. Democracy has strange ways of working itself out. The yardstick that will apply to a democratically elected person cannot be made applicable to a staff who is governed by conduct rules. Of course, there may not be any statutory disqualification but then drawing inspiration from the aforesaid decision of the Hon'ble Supreme Court reported in *(1996) 11 SCC 760*, I hold that the second respondent was justified in relieving the petitioner from the position of in-charge principal in view of his implication as the first accused in a vigilance case. It has been clarified before me that even though the impugned order does not specifically spell out the reason as it did not want to cast stigma on the writ petitioner, it was his implication in the criminal case that led to the issuance of the impugned order. I do not find any ground to interfere and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

07.09.2022

Index : Yes / No
Internet : Yes/ No
ias



WEB COPY



W.P(MD)No.12704 of 2022

G.R.SWAMINATHAN, J.

ias

To:

- 1.The Director of Collegiate Education,
Directorate of Collegiate Education,
E.V.K.Sampath Maligai,
College Road, Chennai.
- 2.The Regional Joint Director of Collegiate Education/
Officer For Direct Disbursement
of Salary to the Staffs of Usilampatti,
Pasumpon Muthuramalinga Thevar College,
Madurai Region, Madurai.

W.P(MD)No.12704 of 2022

07.09.2022