



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.14665 of 2021 and

WMP(MD) No.11597 of 2021

WEB COPY

Dr.S.Prem Singh

Petitioner

Vs.

1.The Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Madurai - 625 002.
Madurai District.

2.The Secretary,
The Governing Council of the American College,
Madurai - 625 002,
(R.1/1934), Madurai District.

3.Dr.M.Davamani Christopher,
Secretary, Governing Council of the American College,
Madurai - - 625 002,
(R.1/1934), Madurai District.

4.The American College,
Rep by its Principal & Secretary,
Madurai - 625 002.
Madurai District.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the second respondent, herein in proceedings No.Nil, dated 21.06.2021, quash the same and further direct the respondents herein to reinstate the petitioner in service as Associate Professor, Post Graduate and Research Department of Chemistry in the fourth respondent College from 21.06.2021 onwards with salary, continuity of service and other attendant benefits.

For Petitioner

:Mr.E.V.N.Siva

For R1

:Mr.J.Ashok,

Additional Government Pleader.

For R4

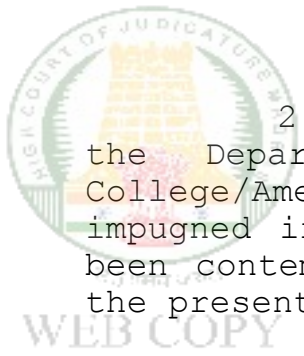
:Mr.Mohaboof Athiff

For M/s.Ajmal Associates

O R D E R

This writ petition is filed challenging the order of suspension, dated 21.06.2021.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The petitioner, who is working as Associate Professor, in the Department of Chemistry, under the fourth respondent College/American College, is placed under suspension, by the order impugned in this writ petition and on enquiry, grave charges have been contemplated as against the petitioner. Challenging the same, the present writ petition is filed.

3.Mr.E.V.N.Siva, learned counsel appearing for the petitioner submits that the order of suspension is passed with malafide. According to the petitioner, the third respondent, who is serving as Principal and Secretary of the fourth respondent College has committed several mal-administration and misappropriation of University Grant Commission funds and therefore as a member of that Institute, the petitioner lodged a complaint as against the third respondent to the Registrar, Madurai Kamarajar University on 01.04.2021. The Registrar, Madurai Kamarajar University has called for an explanation from the fourth respondent on 20.04.2021. The Governing Counsel of the American College has also unanimously decided to conduct an independent enquiry on the complaint made by the petitioner that the averment in the complaint is of serious in nature and it is a stigma to the reputation of the College, thereby, appointed an independent enquiry committee, consisting the members of the Governing Counsel, to enquire into the complaint, by proceedings, dated 29.05.2021. The petitioner could not appear before the enquiry officer on the date of hearing, since he was affected with COVID -19, the enquiry was adjourned to 16.06.2021 and on that day, the petitioner also appeared and made his detailed submissions, before the enquiry Committee, appointed by the Governing Counsel of the College. In this circumstances, the petitioner was placed under suspension on 21.06.2021, by the fourth respondent and the same is impugned in this writ petition.

4.In response to the order of suspension, the petitioner addressed a letter dated 21.06.2021, requesting the respondent College to furnish the resolution of the Governing Counsel and the charges made against him, if any. In this regard, he also sent reminders on 01.07.2021 and 14.07.2021. The petitioner has also made further complaint as against the fourth respondent with additional documents on 15.07.2021.

5.According to the learned counsel appearing for the petitioner, the fourth respondent has misappropriated a sum of Rs.73,02,760/- from University Grant Commission funds. The petitioner has collected all the documents and he has also made a further complaint along with the documents to the Registrar of Madurai Kamaraj University and aggrieved over the same, the incompetent authority passed the impugned order of transfer, in such a mechanical manner, even without any resolution of the Governing Counsel. Hence, the order of suspension is liable to be set aside.

6.Mr.Ashok, learned Additional Government Pleader appearing for the fourth respondent submits that he is a formal party in this



writ petition and he is not having any role in the affairs of the fourth respondent College.

7. When, the writ petition was taken up for hearing on 17.08.2021, notice was ordered to the respondents. Private Notice was also permitted, subsequent to which, Court notice was served on the respondents on 26.08.2021 and the petitioner has also filed proof of service on 13.09.2021 and the writ petition was also listed in the name of the respondents. Even then, there was no representation for the respondents 2 to 4.

8. Since, M/s. Ajmal Associates, are the Standing Counsel appearing for the fourth respondent College, this Court called Mr. Mohaboof Athiff, learned counsel for the fourth respondent College and put on notice to the counsel about the present writ petition pending before this Court. The learned counsel requested for short accommodation that he is not furnished with the copy of the papers.

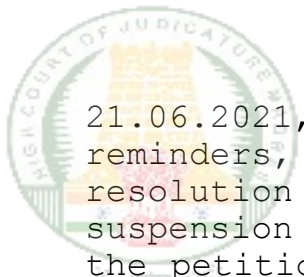
9. It appears that though notice has been served on the respondents on 26.08.2021, the respondents 2 to 4 have not taken any steps to file their Vakalat and to defend their case.

10. Mr. Mohaboof Athiff, learned counsel for the respondents obtained oral instructions overphone and submits that the Governing Counsel has passed resolution on 29.05.2021 in resolution No.15 of 2021 and based on the same, the petitioner was placed under suspension on 21.06.2021. He further submits that in view of the pendency of this writ petition, they have not supposed to issue any charge memo to the petitioner. He also claimed that the petitioner has misappropriated the college funds and in this regard, enquiry was also contemplated as against the petitioner.

11. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

12. The fact remains that the petitioner has made several attempts to obtain the copy of the resolution of the Governing Counsel from the respondent College, for his suspension and the copy of the charges if any made as against him. Irrespective of the repeated requests made by the petitioner, he was not served with the copy of the resolution of the Governing Counsel and the charges, if any made as against the petitioner, so far.

13. It is to be noted that the learned counsel appearing for the respondents 2 to 4 claims that the Governing Counsel has passed a resolution and based on which, the petitioner was placed under suspension. But, the said resolution was not at all reflected/referred in the suspension order, which is impugned in this writ petition. Apart from that the petitioner has also



21.06.2021, 01.07.2021 and 02.08.2021. Even after his repeated reminders, the petitioner was not furnished with the copy of the resolution of the Governing Counsel. Though the impugned order of suspension was passed on 21.06.2021, charges have not been issued to the petitioner so far. The learned counsel for the respondents 2 to 4 claims that they are having an apprehension that pendency of this writ petition would be a bar for issuing a charge memo, thereby they have not issued charge memo to the petitioner. The said contention cannot be accepted by this Court, for the reason that the respondents 2 to 4 are really aware of this writ petition and the conduct of the respondents in not filing any Vakalat or instructing the Standing Counsel to defend the case shows that the respondents 2 to 4 are clearly evading the writ petition for the reasons best known to them.

14.The fact remains that Court notice was served on the respondents 2 to 4 on 21.08.2021 and the petitioner has also taken out the private notice as against the respondents and the petitioner has also filed proof of service. More over, the respondent College is also facing several litigations and even today, another writ petition is also posted before this Court and the respondent Institute is defending the other writ petition effectively through their standing counsel. However, in this writ petition, the respondents have not chosen to defend the case by engaging the counsel or instructing the counsel with adequate materials. Finally, it is clear that the petitioner was placed under suspension on 21.06.2021, for having made complaint as against the fourth respondent on 01.04.2021.

15.In view of the foregoing reasons, the impugned order of suspension is liable to be set aside and accordingly, the impugned order of suspension, dated 21.06.2021 is set aside. The respondent College is directed to reinstate the petitioner as Associate Professor, Post Graduate and Research Department of Chemistry in the fourth respondent College forthwith and salary, continuity of service and other attendant benefits shall also be provided to the petitioner.

16.Accordingly, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

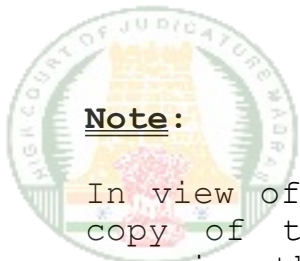
Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note:

In 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 Joint Director of Collegiate Education,
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Madurai District.

2.The Secretary,
The Governing Council of the American College,
Madurai - 625 002,
(R.1/1934), Madurai District.

+1 CC to M/s.SPL.GP (SR-2408[F] dated 25/01/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-2297[F] dated 25/01/2022)

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