



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON: 01.02.2022  
DELIVERED ON: 11.03.2022  
CORAM

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .Nos.19205, 19273 and 19702 of 2015  
and Review Application No.46 of 2015  
and  
M.P. (MD) .Nos.1, 2, 1 and 1 of 2015

W.P. (MD) .Nos.19702 of 2015

Panneer Selvam

... Petitioner

**Vs.**

1.The Joint Director of School Education (Secondary),  
College Road,  
Chennai.

2.CE Higher Secondary School,  
Represented by its Correspondent,  
Vannarapettai,  
Puthur, Trichy.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records and quash the impugned order passed by the first respondent in his proceedings in Mu.Mu.No.20674/G-2/E-1/2015 dated 23.09.2015 partly the finding that the stoppage of two increments with cumulative effect on the ground that the same is arbitrary, illegal, perverse.

For Petitioner: Mr.N.R.Murugesan

For R-1 : Mr.N.Ramesh Arumugam,  
Government Advocate (Civil Side).

For R-2 : Mr.Muthuvel,  
For M/s.Isaac Chambers.

W.P. (MD) .Nos.19273 of 2015

The Correspondent  
C.E.Higher Secondary School,  
Vannarapet,Tiruchirappalli,  
Tiruchirappalli District.

... Petitioner



**Vs .**

- 1.The Director of School Education,  
College Road,  
Chennai - 600 006.
- 2.The Joint Director of School Education,  
(Higher Secondary), College Road,  
Chennai - 600 006.
- 3.The Chief Educational Officer,  
Tiruchirappalli,  
Tiruchirappalli District.
- 4.The District Educational Officer,  
Tiruchirappalli,  
Tiruchirappalli District.

5.A.Panneer Selvam

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order issued by the second respondent Joint Director of School Education in Mu.Mu.No.20674/G2/E1/2015 dated 23.09.2015 and quash the same.

For Petitioner : Mr.Isaac Mohanlal

For R-1 to R-4 : Mr.N.Ramesh Arumugam,  
Government Advocate (Civil Side).

For R-5 : Mr.N.R.Murugesan

**W.P. (MD) .Nos.19205 of 2015**

Panneer Selvam

... Petitioner

**Vs .**

- 1.The Joint Director of School Education (Secondary),  
College Road,  
Chennai.
- 2.The Chief Educational Officer,  
Parent-Teacher Association Building,  
Syed Murthusha Higher Secondary School Compound,  
Trichy - 8.



3.The District Educational Officer,  
Collector Office Compound,  
Trichy - 1.

4.CE Higher Secondary School,  
Represented by its Correspondent,  
Vannarapettai,  
Puthur,  
Trichy.

5.M.James

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the fourth respondent to allow the petitioner to join the duty in the fourth respondent's School as Tamil Pandit along with all the benefits, back wages, attendance entries as per the order passed by the first respondent dated 23.09.2015 under Mu.Mu.20674/G-2-E1/2015 in favour of the petitioner.

For Petitioner : Mr.N.R.Murugesan

For R-1 to R-3 : Mr.N.Ramesh Arumugam,  
Government Advocate (Civil Side).

For R-4 and R-5 : Mr.Muthuvel,  
For M/s.Isaac Chambers.

**Review Appl(MD) .No.46 of 2015**

1.The Correspondent,  
C.E.Higher Secondary School,  
Vannarapettai, Thiruchirappalli,  
Thiruchirappalli District - 620 017.

2.The Head Master,  
C.E.Higher Secondary School,  
Vannarapettai,  
Thiruchirappalli - 620 017, Thiruchirappalli District.

3.M.James,  
Correspondent,  
Higher Secondary School,  
Vannarapettai, Thiruchirappalli,  
Thiruchirappalli District - 620 017.

... Petitioners

**Vs.**



1.A.Panneerselvam

2.The Director of School Education,  
College Road,  
Chennai - 600 006.

3.The Joint Director (Secondary),  
Directorate of School Education,  
College Road,  
Chennai - 600 006.

4.The Chief Educational Officer,  
Thiruchirappalli.

5.The District Educational Officer,  
Thiruchirappalli District - 620 001.

... Respondents

**Prayer** : Review Application filed under Order 47 Rule 1 of CPC, to review the order dated 26.02.2015 in Writ Petition W.P.(MD).No.2610 of 2015.

Prayer in WP(MD). 2610 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records pertaining to the dismissal order dated 19.02.2015, passed by the 5th Respondent and quash the same.

For Petitioners : Mr.Muthuvel,  
For M/s.Isaac Chambers.

For R-1 : Mr.N.R.Murugesan,

For R-2 to R-5 : Mr.N.Ramesh Arumugam,  
Government Advocate (Civil Side).

#### **COMMON ORDER**

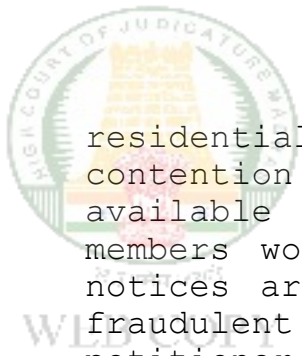
The writ petitioner namely Paneer Selvam had filed two Writ Petitions in W.P.(MD).Nos.19205/2015 and 19702/2015. In W.P.(MD). No.19205 of 2015, the prayer is for Mandamus directing the fourth respondent namely the C.E. Higher Secondary School to allow the petitioner to join duty as Tamil Pandit along with all benefits, back wages, and attendance benefits based on the order passed by the first respondent dated 23.09.2015. In W.P.(MD).No.19702 of 2015, the petitioner has challenged the impugned order dated 23.09.2015 passed by the first respondent insofar as finding that the stoppage of two increment with cumulative effect alone. The Correspondent of CE Higher Secondary School has filed W.P.(MD).No.19273 of 2015



challenging the same impugned order dated 23.09.2015 passed by the Joint Director of School Education.

2. The brief facts of the case are that the Writ Petitioner namely, Paneer Selvam joined as B.T. Assistant Tamil Pandit in the C.E. Higher Secondary School on 10.06.1992. The petitioner and other teachers filed a suit before District Munsif Court, Trichy in O.S.No.1142/2013 thereby praying to declare that the Christian Endaveour Literary Trust is a non-existence, where it was defunct on 1998 itself. Another suit in O.S.No.1221 of 2014 before the District Munsif Court, Trichy praying to declare that one M.James is unfit to hold the office of the Correspondent-ship in the said School.

3. The contention of the writ petitioner is that the said James either by hook or crook has got approval from the District Educational Officer on 07.01.2015 with the retrospective effect from 01.10.2014. This was challenged in W.P.(MD).No.2687 of 2015 praying that the approval was granted to James with retrospective effect is ab-initio void, illegal, ultra vires the powers of statute. Due to the suits filed against the said James, with a bias and malafide attitude, without following any principles of natural justice has conducted enquiry proceedings unilaterally and the petitioner was terminated from service on 19.02.2015. The said illegal termination order was put to challenge in W.P.(MD).No.2610 of 2015 and this Court dismissed the Writ Petition with a liberty to file an appeal before the first respondent within a period of four (4) weeks. Thereafter, the petitioner filed an appeal to the first respondent and the first respondent vide order dated 23.09.2015 has held the School without following principles of natural justice has passed an order and set aside the order of termination and modified the punishment as stoppage of increments for two years with cumulative effect. The petitioner is aggrieved over by the punishment portion alone where it has given stoppage of increment for two years with cumulative effect because the alleged allegations against the petitioner has not been proved either by oral evidence or by documentary evidence. The alleged notices issued by the enquiry officers has been proceeded only by the second respondent / C.E. School on the status of Correspondent. The second respondent has not even intimated the appointment of the enquiry officer and its proceedings. Therefore, there cannot be any enquiry proceedings at all, which is violative principles of natural justice. All the enquiry proceedings were conducted with hand in glove with the second respondent / C.E. School out of his own compulsion and coercion. The alleged enquiry is only an exparte one, no notice to the petitioner in connection with the said enquiry officer / enquiry. Therefore, the contention of the petitioner is, the impugned order passed by the first respondent ought to be considered since there was factual error. Not even a single notice regarding the enquiry proceedings was served to the petitioner either to his

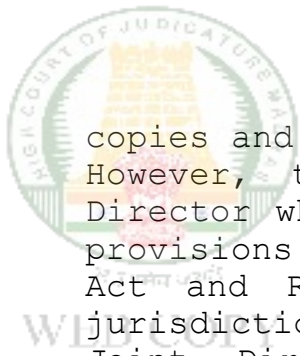


residential address or before the second respondent School. The contention of the petitioner is that even if the petitioner is not available in the said residential address, any one of his family members would receive the alleged notices. Therefore, the alleged notices are all created, concocted, fabricated, manipulated and a fraudulent one, hand in glove with the postal department. The petitioner also filed W.P. (MD). No. 19205 of 2015 for Mandamus directing the second respondent to allow the petitioner to join duty as Tamil Pandit. Therefore, the petitioner claims that the said enquiry proceedings itself is totally vitiated, the punishment of the stoppage of increment with cumulative effect ought to be set aside.

4. The contention of the School is that the said delinquent Panneer Selvam was appointed as B.T.Assistant Tamil Pandit on 10.06.1992. His service was terminated on 06.06.2001 on disciplinary grounds. He has challenged the same before Principal Court in W.P.No.12449 of 2001 and this Court vide order dated 25.03.2007 was pleased to set aside the order on technical grounds stating the School was entitled to conduct an enquiry afresh in accordance with law and his reinstatement would subject to the final decision of the School. The School preferred an appeal in W.A.No.1541 of 2007 and the Hon'ble Division Bench vide order dated 10.12.2007 was pleased to confirm the order. Thus, the School preferred Special Leave Petition before the Hon'ble Supreme Court and the Hon'ble Supreme Court declined to grant Special Leave. In order to comply with the orders of this Court, the School reinstated the delinquent with all monetary benefits. However, regarding afresh enquiry, the delinquent requested before the School not to take any fresh steps in that regard assuring that he would not repeat such thing in future. The School considered the matter sympathetically and dropped further action. After few years, the delinquent again started doing the same mistakes. In the year 2010, he along with three other teachers induced the students to indulge in unwarranted agitations, stage road-roka etc., which caused serious damage to the reputation of the School. The School had initiated disciplinary action and the delinquent was placed under the suspension with effect from 22.11.2010. A charge memo dated 03.02.2011 was issued containing seven charges against the delinquent. The delinquent and other teachers challenged the suspension order and the charge memo in W.P. (MD).Nos.14192 to 14195 of 2011 and W.P.(MD).No.1746 of 2011. The School later withdrew the suspension order and the charge memo with warnings not to indulge in such activities in future. In view of the same, the Writ Petitions were disposed of on 28.11.2011. However, the delinquent did not mend his ways at all and he continued to incite the staffs and the students to agitations in unwanted things and there were repeated complaints from the students and the parents and he never mind those things. The delinquent even refused to take one hour special classes for the weak students of X Standard inspite of the circular by the Headmaster. When the School



questioned his conduct, he started organizing protests and agitations. Thereafter, a charge memo dated 03.04.2014 was issued through Register Post and the same was received by his mother Mrs. Padmavathi on 05.04.2014 and the copy was also handed over to him at School on 08.04.2014 and he refused to receive the same and also did not submit any explanation. Again complaints were received against the delinquent for not taking special classes for weak students of 10<sup>th</sup> Standard. Hence another charge memo dated 08.04.2014 was issued to him to submit the detailed explanation within three days. The delinquent refused to acknowledge the same, since the School has sent it through Registered Post. After that, again two charge memos were issued dated 15.04.2014 and 21.04.2014. The crux of the charges were that by sitting in the staff room, he was not doing any work and on the other hand, allowing the outsiders inside the campus and chatting with them and he has not submitted any explanation to the various charge memos. Thereafter, the School consolidated all the four charge memos into one and sent it to the delinquent on 21.05.2014 through ST Courier. 14 charges were framed by the School on 28.05.2014 and the same was communicated through Registered Post with acknowledgement card, but the delinquent wantonly refused to receive the same and it was returned with endorsement as 'refused' on 30.05.2014. Since the delinquent did not submit any explanation, the School appointed one Mr. C.V. Sankar as the enquiry officer to conduct an independent enquiry. It was intimated to the delinquent several times to appear for enquiry through Registered Post with acknowledgement card on 07.06.2014, 13.06.2014 and 23.06.2014 and the delinquent refused and the letter was returned with an endorsement 'refused' on 10.06.2014, 14.06.2014 and 26.06.2014 respectively. Finally, the enquiry officer gave an enquiry notice on 23.08.2014 and the same was refused by the delinquent. Thereafter, the exparte order was passed based on the available records. The enquiry report was submitted on 17.09.2014 and all the charges were proved. The enquiry report was sent to the delinquent on 17.09.2014 and that was also refused. The School sent a second Show Cause Notice on 26.01.2015 calling for explanation to the enquiry notice within seven (7) days to impose a punishment of termination from service. The delinquent again refused to receive and did not submit any explanation. Therefore, the School passed an order terminating the petitioner from service from 19.02.2015. The termination order was served on the delinquent and again he refused to receive the same. The order was communicated through RPAD on 19.02.2015 and the same was refused on 21.02.2015. His termination was entered in Service Register as well as the Masters Attendance Register. The delinquent challenged the termination order in W.P. (MD).2610 of 2015 and the Writ Petition was dismissed vide order dated 26.02.2015 giving liberty to the delinquent to prefer appeal before the Joint Director of School Education. The School came to know of such Writ Petition and the notice when Joint Director issued proceedings dated 06.07.2015 asking the School to appear before him on 14.07.2015 at 4.00 p.m. for enquiry in the appeal. The School sought for appeal



copies and the same was not furnished in spite of so many reminders. However, the School submitted its objections before the Joint Director when the School is the Minority Institution and the appeal provisions under Tamil Nadu Recognized Private Schools (Regulation) Act and Rules would not apply and the Joint Director has no jurisdiction to entertain the appeal. In spite of the same, the Joint Director has passed the present impugned order dated 23.09.2015 cancelling the termination order and altered the punishment as stoppage of two increments with cumulative effect. The School contended the Joint Director has passed the order without any jurisdiction and there is a total non application of mind and he has proceeded on the premise that the delinquent has not provided any opportunity for hearing. The School submitted the delinquent has recently formed an illegal Association in the name of Christian Endeavour School Association and started claiming that he was the Educational Agency of the School and the delinquent as its Correspondent. The GH Police at Trichy registered a criminal case against the delinquent in that regard under Crime No.346 of 2015 dated 18.07.2015. He was arrested by Police on 26.07.2015 and kept in custody till 29.09.2015 and was enlarged bail thereafter. When this Writ Petition was taken up for hearing, the School submitted against the order passed in W.P.(MD).No.2610 of 2015, the School has preferred a Review Application (MD).No.46 of 2015 and the same is pending before this Court. Therefore, the Registry was directed to tag the Review Application along with this Writ Petition.

5. Heard Mr.N.R.Murugesan Learned Counsel for the petitioner, Mr.N.Ramesh Arumugam for the official respondent and Mr.Muthuvel For M/s. Isaac Chambers for the School Management.

6. The School has filed a Review Application on the ground that the appeal filed before the Joint Director of School Education is not maintainable since the provision relating to appeal against the order of dismissal under the Tamil Nadu Private School Rules and Regulation Act do not apply. The School is aggrieved by the order passed in W.P. (MD). No. 2610 of 2015 which was passed at the time of admission stage itself. The contention of the School is Tamil Nadu Private Schools Regulation Act is not applicable to Minority Aided Institutions and has relied on the judgment rendered in the *Management of Papanasam Labour Welfare Association Higher Secondary School, Vikramasingapuram Vs. The Chief Educational Officer, Tirunelveli* reported in 1998 (III) CTC 753. However, in *TMA Bai Foundation case*, the Hon'ble Supreme Court has held as follows "Suspension, dismissal and other service issues, the Government has power to regulate the Minority Aided Schools of course without interfering in a day-to-day administration", since this is affecting the civil rights of the employees working in the Minority Aided Schools.



7. On perusing the entire records it is seen that there are several allegations against the delinquent. The contention of the respondents that the petitioner has been dealt with mercifully on two different occasions and this is the third occasion. In private schools the management and the employees should have cordial relation for smooth running of the institution. In the present case absolutely there is no cordial relation between the delinquent and the School Management. This will definitely affect the smooth running of the institution.

8. The School vehemently opposed against setting aside of the termination order. The Joint Director has modified the termination order into stoppage of increment for two years with cumulative effect. The School has submitted it would affect the name of the School also the working condition for the other teachers, if the petitioner is reinstated. But the contention of the petitioner is that he was not even granted a single opportunity and the enquiry officer was passed exparte. But from records submitted by the School it is seen that the School has issued several notices to the delinquent but he has not received any notice and in fact he has refused all the notices. But the contention of the petitioner is that the School has taken cautious steps so that none of the notices were served through postal department. This contention is unbelievable because the delinquent was not under suspension he was continuing in service and at two occasions, the petitioner was served notice in person, then also then also the petitioner has refused to receive such notices. The delinquent has not co-operated with the enquiry proceedings at all. It would be a very futile attempt if the case is remitted back to the authorities for reconsideration. It is seen from the records that delinquent Panneer Selvam is aged about 53 years at the time of filing of the Writ Petition and he has attained superannuation.

9. Taking all these factors into consideration, this Court deems it fit the order of punishment passed by the Joint Director meets interference. Therefore, this Court is inclined to modify the punishment as compulsory retirement. The respondent School is directed to implement the order of compulsory retirement and thereafter disburse all terminal and monetary benefits to the delinquent in accordance to law.

10. The issue of jurisdiction raised in Review Application (MD).No.46 of 2015 is left open.

11. With the above said observations, Review Application (MD).No.46 of 2015, the two Writ Petitions filed by the delinquent in W.P.(MD).No.19702 of 2015 and W.P.(MD).No.19205 of 2015 and another Writ Petition filed by the School in W.P.(MD).No.19273 of



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2015 are disposed of with the above stated modification of punishment. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

Nsr

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 Director of School Education,  
College Road, Chennai - 600 006.
- 2.The Joint Director of School Education,  
(Higher Secondary), College Road,  
Chennai - 600 006.
- 3.The Chief Educational Officer,  
Tiruchirappalli, Tiruchirappalli District.
- 4.The District Educational Officer,  
Tiruchirappalli,  
Tiruchirappalli District.
- 5.The Correspondent,  
CE Higher Secondary School,  
Vannarapettai, Puthur, Trichy.

+1 CC to M/s.ISAAC CHAMBERS, Advocate ( SR-12002[F] dated 14/03/2022 )

Order made in  
**W.P. (MD).Nos.19205, 19273 and 19702 of 2015**  
**and Review Application No.46 of 2015**  
**11.03.2022**

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TR(23.03.2022) 10P 7C