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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.01.2022**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P (MD) .No.3898 of 2015

and

M.P (MD) .Nos.1 and 2 of 2015

K.Manimozhi Selvi

... Petitioner

Vs.

1.The State Project Director,
Sarva Shisksha Abiyan (SSA),
Chennai-600 006.

2.The Additional Chief Educational Officer (SSA),
Virudhunagar-626 001,
Virudhunagar District.

3.The Secretary,
Virutcham Magalir Munnetra Kalzangiam(VMMK),
No.7/13, Shanmugampillai Street,
West Car Street,
Near Lysander Hospital,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, forbearing the respondents No.2 and 3 from terminating the service of the petitioner without any enquiry with issuance of charge memo and appointment of an enquiry officer.

For Petitioner : Mr.G.Karthik
For M/s.T.Lajapathi Roy

For R2 : Mr.N.Ramesh Arumugam
Government Advocate (Civil Side)

For R3 : Mr.A.Rahul

O R D E R

The writ petition is filed for the writ of Mandamus forbearing the respondents 2 and 3 from terminating the service of the petitioner without enquiry.



2.The brief facts of the case are that the petitioner was appointed under third respondent in service under special scheme. The allegation against the petitioner is she has demanded the money from school children and has misappropriated more than 3 ½ lakhs. A memo dated 02.02.2015 was issued and the petitioner has submitted an explanation on 12.02.2015.

3.The contention of the petitioner is that the second and third respondents are threatening the petitioner that she will be terminated without any enquiry. Hence the petitioner has come up with this writ petition, with a prayer forbearing the respondents from terminating the service without any enquiry. When the writ petition was taken up, for admission, this Court has granted an interim injunction vide order dated 19.03.2015 and the relevant portion is extracted there under:

*Notice of motion returnable by four weeks.
private notice is also permitted. In the mean time,
there shall be an order of interim injunction.*

4.The first and second respondents have filed vacate interim injunction petition in M.P.(MD).No.2 of 2015. In the counter, the third respondent has submitted that the residential school is made for drop out female children. The writ petitioner is not a regular employee, but a temporary appointment on contractual basis. Hence the writ petition is not maintainable. More over, the allegation against the petitioner are more serious and he has misappropriated the funds. Hence the respondents prayed to vacate the interim order and consequently dismissed the writ petition.

5.Heard the learned counsel for both the sides.

6.The petitioner's prayer itself forbearing the respondents from terminating service without any enquiry. The contention of the petitioner that the respondents would terminate her service without conducting any enquiry, thereby the respondents would violate the principles of natural justice. However, the respondents submitted that the petitioner was granted natural justice and she was given adequate opportunity to appear before the enquiry officer and full fledged enquiry has been conducted and it was found the petitioner misappropriated and the charges held to be proved. Therefore, this Court is of the considered opinion, the petitioner is at liberty to challenge the final dismissal order dated 10.02.2016.

7.However, this Court has granted interim injunction and final orders have been passed frustrating the interim order. This Court is of the considered opinion that it is amounting to contempt of Court. The petitioner has not preferred any contempt petition. This Court has taken note of same and imposing cost of Rs.1000.



8.With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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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 State Project Director,
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Chennai-600 006.

2.The Additional Chief Educational Officer (SSA),
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Virudhunagar District.

+1 CC to M/s.A.RAHUL, Advocate (SR-1862[F] dated 20/01/2022)

+1 CC to M/s.SPL GP (SR-1890[F] dated 20/01/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-1989[F] dated 21/01/2022)

W . P (MD) No . 3898 of 2015
19.01.2022

RD(10.02.2022) 3P 7C