



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No. 22950 of 2021

and

W.M.P. (MD) Nos. 19431 and 19433 of 2021

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M.Shanmuga Gomathi

... Petitioner

Vs.

1. The Commissioner of School Education,
Office of the Commissioner of School Education,
DPI Complex,
Chennai - 600 006.
2. The Chief Educational Officer,
Office of the the Chief Educational Office,
Tenkasi District.
3. The District Educational Officer,
Office of the District Educational Office,
Tenkasi District.
4. The Secretary,
Meenakshi Sundaram Memorial Higher Secondary School,
Idaikal, Kadayanallur Taluk,
Tenkasi District.
5. S.Rajasekar,
Secretary,
Meenakshi Sundaram Memorial Higher Secondary School,
Idaikal, Dadayanallur Taluk,
Tenkasi District.
6. S.Arumugam,
Enquiry Officer,
Chief Educational Officer (Retired),
199/L, Pennagaram Road,
Dharmapuri - 636 701.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order pased by the 4th respondent in his proceedings in Letter No.62/2021 dated 18.10.2021 and the consequential impugned order passed by the sixth respondent in his proceedings Nil dated 25.11.2021 and quash the same as illegal and consequentially to direct the respondents to conduct an enquiry in respect of the charge memo dated 21.06.2018 by appointing a neutral person.



For Petitioner : M/s.Ajmal Associates
For Respondents : Mr.G.V.Vairam Santhosh
Spl .Govt. Pleader for R1 to R3
Mr.S.Mani for R4 to R6

O R D E R

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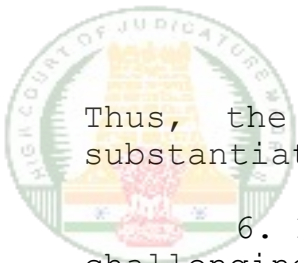
The order of appointing an Enquiry Officer to conduct the domestic enquiry and the proceedings of the Enquiry Officer to commence the enquiry proceedings are under challenge in the present Writ Petition.

2. The petitioner was appointed as Drawing Teacher on 13.02.2006 at Meenakshi Sundaram Higher Secondary School, Tenkasi and working as such. The petitioner states that when she claimed promotion to the post of B.T.Assistant, the dispute arose between the School Management and the petitioner, that resulted in initiation of disciplinary proceedings. Admittedly, the charge memo was issued to the petitioner by the fourth respondent School Management on 21.06.2018. Thereafter, the Enquiry Officer was appointed on 09.07.2018 and the Enquiry Officer issued a notice for commencement of enquiry on 24.07.2018.

3. The learned counsel appearing for the petitioner reiterated that though the sixth respondent / Enquiry Officer is a retired Chief Educational Officer, is acting with malafide intention. Hence, the petitioner raises a doubt with reference to the appointment of Enquiry Officer by the fourth respondent. It is contended that the sixth respondent may not act fairly and the learned counsel appearing for the petitioner states that, he raised a malafide intention against the sixth respondent / Enquiry Officer.

4. The learned counsel appearing on behalf of the fourth respondent / School Management objected the said contentions by stating that the sixth respondent is a retired Chief Educational Officer and he is no way connected with the School Management. He being an experienced officer in the Education Department, the Management has appointed him to conduct a domestic enquiry. Further, the malafide ground raised by the petitioner has not been substantiated and therefore, the Writ Petition is to be rejected.

5. This Court is of the considered opinion that the malafide intention has been raised by the petitioner, by merely stating that "the petitioner has expressed the malafide intention of the Management". However, there are no specific allegations which all are required to satisfy the requirement of malafide intention and mere statement in this regard is insufficient. The ground of malafide intention is to be established with specific allegations and such allegations are to be substantiated. Routinely, raising such allegation of malafide is impermissible and the Court cannot rely on such statement made by the petitioner, who is a Delinquent Official, as far as the disciplinary proceedings are concerned.



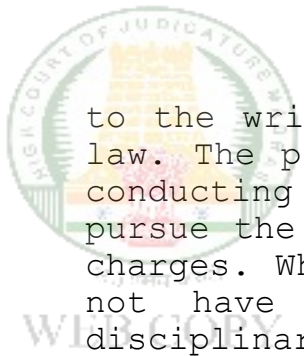
Thus, the allegation of malafide in the present case are not substantiated by the petitioner and deserves to be rejected.

6. Earlier, the petitioner filed W.P. (MD) No. 16389 of 2018, challenging the initiation of disciplinary proceedings and obtained an order of interim stay. The order of interim stay was in force for about three years and the petitioner has withdrawn the said Writ Petition on 15.02.2021. After withdrawal of the said Writ Petition, the fourth respondent Management appointed an Enquiry Officer and the Enquiry Officer issued a notice for commencement of enquiry. Again, the writ petitioner filed the present Writ Petition, challenging the appointment of Enquiry Officer and the notice issued by the Enquiry Officer for commencement of domestic enquiry.

7. There is a growing trend of challenging the departmental disciplinary proceedings at every stage right from the issuance of memo and the Writ Petitions are filed continuously, in order to prolong and protract the issues. The Delinquent Officials, instead of defending their cases and establishing their innocence, are approaching the High Court at every stage on certain unacceptable grounds or by merely raising malafide intention on the part of the officials. If initiation of disciplinary proceedings itself is considered as malafide intention, then the very purpose and object of the discipline and appeal proceedings will be defeated. Therefore, the Writ Petitions filed on such flimsy or mere grounds need not be entertained by the High Court. In many such Writ Petitions, the Delinquent Officials obtained an order of interim stay, keeping the writ petitions pending for several years and attempting to escape from the clutches of the disciplinary proceedings. Such practice can never be encouraged by the High Court. Once the departmental disciplinary proceedings are initiated, then it must reach a logical conclusion and the Delinquent Official is expected to co-operate for earlier disposal of the departmental disciplinary proceedings. The very idea of diluting the proceedings by these Delinquent Officials are to be cautiously dealt with by the Court.

8. In the present case, soon after the Enquiry Officer is appointed, the Writ Petition is filed by stating that the sixth respondent will not conduct the enquiry in a fair manner. The statement is made without any specific instances or grounds. Thus, merely raising such a ground of malafide intention, at no circumstances, be accepted by the Court. Such contention of the petitioner would establish their intention to prolong and protract the disciplinary proceedings only for the purpose of escaping from the clutches of the departmental disciplinary proceedings.

9. This being the factum, this Court is of the considered opinion that the retired Chief Educational Officer has been appointed as Enquiry Officer, who is no way connected with the Management. Furthermore, the Enquiry Officer is expected to conduct



to the writ petitioner to defence her case in the manner known to law. The procedures contemplated are to be followed at the time of conducting enquiry and the petitioner must be given opportunity to pursue the records relied on by the Management for establishing the charges. When all these procedures are followed, the petitioner may not have any grievance in participating in the departmental disciplinary proceedings for the purpose of defending her case.

10. The petitioner is also bound to co-operate for earlier disposal of the disciplinary proceedings. She is entitled to defend her case in the manner known to law and she cannot make an attempt to dilute the proceedings by claiming unnecessary documents which are all not connected with the charges or demanding the documents which all are relied upon by the Management for the purpose of establishing the charges. Therefore, the documents and evidences which are all connected with the charges, alone must be dealt with by the parties concerned for the purpose of adjudication of issues and the allegations. Accordingly, the disciplinary proceedings must be concluded as expeditiously as possible. The writ petitioner is directed to co-operate for earlier disposal of the departmental disciplinary proceedings by availing the opportunity to be provided by the Disciplinary Authority and the Enquiry Officer.

11. The learned counsel appearing for the petitioner made a submission that a time limit may be fixed as the petitioner has undertaken that she will co-operate for early disposal of the departmental disciplinary proceedings.

12. In view of the said submission made by the learned counsel appearing for the petitioner, the Disciplinary Authority is directed to complete the departmental disciplinary proceedings within a period of four months from the date of receipt of a copy of this order. In the event of non-cooperation on the part of the petitioner, the same shall be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled for any relief on the ground of delay in disposal of disciplinary proceedings.

13. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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



To

1. The Commissioner of School Education,
Office of the Commissioner of School Education,
DPI Complex, Chennai - 600 006.

2. The Chief Educational Officer,
Office of the the Chief Educational Office,
Tenkasi District.

3. The District Educational Officer,
Office of the District Educational Office,
Tenkasi District.

+1 CC to M/s.S.MANI, Advocate (SR-9318[F] dated 01/03/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9474[F] dated
02/03/2022)

+1 CC to M/s.SPL GP (SR-9451[F] dated 02/03/2022)

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