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W.P.(MD)NO.26125 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26125 of 2022 and
W.M.P.(MD)Nos.20281,20282 & 20284 of 2022

M.Babu,
B.T.Assistant,
Dr.MAM.Ramasamy Chettiar Government High School,
Kavandampalayam,
Karur District. ... Petitioner

Vs.

1. The Chief Educational Officer,
Karur District, Karur.
2. The District Educational Officer,
O/o.District Educational Office,
Karur District, Karur. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent vide his proceedings in R.C. No.12281/B5/2022 dated 19.10.2022 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner in service within the period that may be stipulated by this Court.



For Petitioner : Mr.M.Ajmalkhan,
Senior Counsel,
for M/s.Ajmal Associates.

For Respondents: Mr.N.Satheeskumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The petitioner is employed as B.T. Assistant (Science) in a Government school. By the impugned order dated 19.10.2022, he was suspended from service. Questioning the same, the present writ petition has been filed.

3. I made it clear that the order of suspension cannot be faulted. This was because the petitioner was implicated in a POCSO case and also subsequently he was in incarceration for a period of 28 days. Therefore, the employer is obliged to suspend the writ petitioner. In fact the petitioner will be



deemed to have been in suspension, if he is in custody for a period of 48 hours. However, the question that arises is whether the order of suspension should continue to operate.

4. The learned Senior counsel drew my attention to the bail order dated 09.11.2022 made in Crl.M.P.No.443 of 2022 on the file of the Additional Sessions Judge, Fast Track Mahila Court, Karur. The order dated 09.11.2022 reads that the defacto complainant and the victim girl appeared before the Court and stated that they have no objection for granting bail. The victim girl had further stated that the accused had nothing to do with the consumption of poison by her. No doubt the bail order exculpates the writ petitioner. As rightly pointed out by the learned Additional Government Pleader, on this ground, I cannot direct the first respondent to revoke the suspension order. The first respondent must satisfy herself. It is well settled that the authority issuing the suspension order can also revoke the same. The learned Senior counsel draws my attention to the statements made by the writ petitioner's colleagues as well as the students. The first respondent can definitely take notice of all these relevant aspects into account.



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5. The first respondent is directed to have an one-on-one conversation with the victim girl. The conversation shall be video-graphed and its integrity and confidentiality shall be maintained. If the victim girl sticks to her stand taken before the Sessions Court and completely exculpates the petitioner herein, the suspension order can be revoked. If the victim girl sticks to her stand set out in the First Information Report, it is obvious that the suspension order has to necessarily continue. The video recording will be kept in safe custody of the first respondent and it will be produced before this Court if the occasion arises. This writ petition stands disposed of accordingly. This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

29.11.2022

Index : Yes / No
Internet : Yes/ No

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Note : Issue order copy on 01.12.2022.



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To:

1. The Chief Educational Officer,
Karur District, Karur.
2. The District Educational Officer,
O/o.District Educational Office,
Karur District, Karur.



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G.R.SWAMINATHAN,J.

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