



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.26595 of 2019

and

WMP (MD)No.293 of 2020

and

WMP (MD)Nos. 22948 and 22949 of 2019

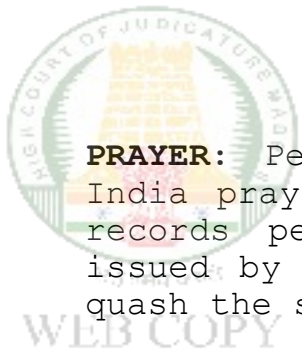
C.Elamurugu

... Petitioner

Vs.

- 1.The Union of India,
Rep.by its Secretary to Government,
Ministry of Heavy Industries and
Public Enterprises,
Department of Public Enterprises,
Public Enterprise Bhavan,
Block No.14, CGO Complex,
Lodhi Road, New Delhi - 110 003.
- 2.Bharat Heavy Electricals (BHEL),
Rep.by its Chairman cum Managing Director,
BHEL House, Siri Fort,
New Dwlhi - 110 049.
- 3.The Executive Director,
Bharat Heavy Electricals Ltd.(BHEL),
Trichy Unit,
Kailasapuram, Trichy - 14.
- 4.Bharat Heavy Electricals Education Society,
Rep.by its Secretary,
Kailasapuram, Trichy - 14.
- 5.R.S.Krishnan Higher Secondary School,
Rep.by its Principal,
Kailasapuram,
Trichy - 14.
- 6.Central Board of Secondary Education,
Rep.by its Secretary,
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar,
New Delhi - 110 092.

... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned suspension cum charge sheet issued by the 5th respondent in File No.Nil, dated 27.11.2019 and quash the same.

For Petitioner :Mr.R.Subramanian

For R1 :Mr.M.Karthikeya Venkatachalapathy
Central Govt.Standing Counsel

For R2 & R3 :Mr.G.Kalyan Jhabakh
For M/s.Surana & Surana

For R4 & R5 :Mr.A.V.Arun

For R6 :Mr.P.Karthick

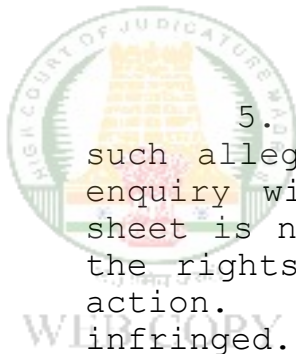
O R D E R

The order of suspension cum charge sheet issued by the 5th respondent, dated 27.11.2019, is under challenge in the present writ petition.

2. The 2nd respondent BHEL is the Government of India owned Company. The 3rd respondent is the Administrative Head of the Trichy Unit. The 4th respondent is the Society and the 5th respondent School is administered by the 4th respondent Society and they are imparting education based on the CBSE Regulation. Therefore, they are not falling under the State Act.

3. The charge memorandum was issued with reference to the allegation that on 26.11.2019, the Principal issued a Circular to all the teaching and non-teaching staff not to participate in any dharna or meeting. At about 4.30 pm., on 27.11.2019, the petitioner had mobilized and led a ground of 50 teaching and non teaching staff to the open ground in front of the school and adjacent to Community Centre, BHEL Township and had staged a sit in dharna in front of the Community Centre shouting slogans against the Management of the School.

4. In view of the allegations, the petitioner was placed under suspension. Pursuant to the interim stay granted, the petitioner was reinstated and now working. Almost two and half year lapsed. The allegations are in respect of conduct of dharna in front of the School and yet another allegation is that on 27.11.2019 at about 1.00 p.m., the petitioner barged into the Principal's Office and threatened the Vice Principal and office staff with dire consequences, if salary is not paid with increased Dearness



5. High Court cannot conduct a roving enquiry in respect of such allegations and the competent authorities have to conduct an enquiry with reference to the documents and evidence. A charge sheet is not liable to be quashed, as it does not adversely affects the rights of an employee and does not give rise to any cause of action. A writ lies only when some right of the person is infringed. The charge sheet does not infringed the right of an employee. It is only when a final order imposing the penalty or otherwise, it may have a cause of action. Hence, the Writ Petition challenging a charge memo by itself is not entertainable, however, it can be quashed on the ground that issuing authority being not competent to issue the same. Therefore, the power of judicial review of the High Court under Article 226 of the Constitution of India is limited as far as Charge Memorandum is concerned, if it is under challenge in a writ proceedings.

6. The learned counsel for the petitioner made a submission that on account of efflux of time, even the petitioner is ready to submit a letter of regret to the Management. However, it is for the Management to consider, if any such letter is submitted for the purpose of disposing of the disciplinary proceedings already initiated, as it involves discipline of the educational institutions. The discipline to be maintained in any educational institutions is of paramount importance and teachers, who are all performing a noble profession is expected to maintain utmost integrity in the school. This being the principle, this Court do not find any acceptable reason for the purpose of setting aside the charge memo and as far as the order of suspension is concerned, the petitioner had already been reinstated. Thus, the respondents are directed to proceed with the disciplinary proceedings and conclude the same by affording an opportunity to the writ petitioner, as expeditiously as possible.

7. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
Union of India,
Ministry of Heavy Industries and
Public Enterprises,
Department of Public Enterprises,
Public Enterprise Bhavan,
Block No.14, CGO Complex,
Indira Park, New Delhi - 110 003.

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



2.The Chairman cum Managing Director,
Bharat Heavy Electricals (BHEL),
BHEL House, Siri Fort,
New Dwlhi - 110 049.

3.The Executive Director,
Bharat Heavy Electricals Ltd.(BHEL),
Trichy Unit,
Kailasapuram, Trichy - 14.

4. The Secretary
Bharat Heavy Electricals Education Society,
Kailasapuram, Trichy - 14.

5. The Principal
R.S.Krishnan Higher Secondary School,
Kailasapuram,
Trichy - 14.

6.Secretary,
Central Board of Secondary Education,
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar,
New Delhi - 110 092.

+1cc to Mr.R.Subramanian, Advocate, Sr.No.5514

+1cc to Mr.M.Karthikeya Venkatachalapathy, Advocate, Sr.No.5469

+1cc to M/s.Surana & Surana, Advocate, Sr.No.5504

ORDER MADE IN
W.P. (MD) No.26595 of 2019
10.02.2022

PKP/21.02.2022/4P/10C