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W.P.No.4455 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4455 of 2023

Dr.S.Murugesan

... Petitioner

Vs.

- 1.The Secretary,
Ministry of Education,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
- 2.The Director,
Directorate of School Education,
17, College Road,
Subba Road Avenue, Nungambakkam,
Chennai - 600 008.
- 3.The Chief Educational Officer,
Presidency Girls Higher Secondary School Campus,
Gangureddy Salai, Egmore, Chennai - 600 008.
- 4.The District Educational officer,
District Educational Office,
SIDCO Nagar 4th Main Road,
SIDCO Nagar,
Villivakkam, Chennai - 600 049.
- 5.The Correspondent,
P.A.K.Palanisamy Higher Secondary School,
1, 4th Lane, Pan Rajarathnam Nagar,
Washermanpet, Chennai - 600 021.

6.R. Dhandapani

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to consider petitioner's representation dated 12.12.2022 and to pass order on merits and consequently directing the respondents 1 to 5 to take up the matter very seriously and conduct enquiry against the 6th respondent, BT Assistant (Tamil) working at 5th respondent's school and to terminate his post and to recover the wages paid to him since 30.06.2009 to till date and take stringent criminal action against him within a stipulated time as prescribed by this Court.

For Petitioner : Mr.R. Balaguru Swamy

For Respondents : Mr.E.Sundaram,
Government Advocate [R1 to R4]

ORDER

With the consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner herein is a third party, who seeks for a direction to the respondents 1 to 5, to conduct an inquiry against 6th respondent, BT Assistant (Tamil) working at 5th respondent's School, to terminate his post, to recover the wages paid to him since 30.06.2009 till date and to take stringent criminal action against him.



3. At the outset, the Writ Petition itself is liable to be dismissed on the ground of maintainability, since this Court had already held in the case of ***'Sudalaikannu Vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and 5 Others'*** in ***'W.P.(MD) No.8871 of 2018'*** dated ***26.04.2018***, that a third party cannot stand in the way between an employee and the employer in matters of service disputes, especially, in the context of disciplinary proceedings. For such a proposition, the learned Single Judge therein, had placed reliance on a decision of the Hon'ble Division Bench and had come to such a conclusion in the following manner:-

..... *“14. As it is rightly pointed out by the learned Amicus, the law in this regard is well settled, as a third party, not connected with any service dispute cannot maintain the Writ Petition, invoking Article 226 of the Constitution of India, on the service side seeking a Writ of Mandamus to take action against any employee or officials.*

15. The theory of personal injury can very well be pressed into the service in this case.

16. Admittedly, the petitioner is a third party and though he has claimed to be the social worker, he cannot



claim any personal injury of the case of the alleged delayed action of disciplinary proceedings against the official respondent against the private respondent.

17. Once the third party cease to be the person, without any personal injury, he cannot maintain the Writ Petition as an adversary Writ Petition.

18. If the petitioner files any adversary writ petition on the service side, because he is a third party, the next question would be naturally raised is that, whether he can file such petitions by way of Public Interest Litigations(PIL).

19. In this regard, it is also brought to the notice of this Court that, the very same petitioner already approached this Court by filing a PIL, where the Division Bench of this Court in W.P.(MD).No.6734 of 2007 in Sudalaikannu Vs., the Secretary, Municipal Administration and Water Supply Department and others dated 23.12.2008 made the following observations which can usefully be pressed into service herein.

“It is seen that the petitioner belongs to a particular political party and he also functioned as a Councilor of the Municipal Corporation. Further, the petition has been filed on frivolous reasons after knowing fully well that action is being taken against respondents-4 to 7. It has



been repeatedly held by the Hon'ble Supreme Court as well as by this Court that vexatious applications in the guise of public interest litigations should not be entertained. Since the present petition is one of such kind, we hold that the petitioner has no locus standi to file it and the same is liable to be dismissed."

20. Since the very same petitioner has been branded as the frivolous litigant by the judicial pronouncement of the Division Bench Judgment cited supra, with regard to the genuineness of the litigant's nature, attached with the nature of this Court, one cannot have any doubt that, the petitioner certainly has not approached this Court for any good intention and he might have approached this Court with any other private intention (i.e.,) the reason why the petitioner knowing well that he cannot file the writ petition against the official respondent herein, for the alleged inaction on their part on the private respondents herein by way of service dispute, has filed this Writ Petition.

21. If such kind of frivolous litigations are entertained by this Court, that too, in exercising the extraordinary original jurisdiction of this Court under Article 226 of the Constitution of India, this Court is afraid that, there will be pouring of such frivolous



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litigations by unscrupulous persons every day and that will open the flood gate to so many unscrupulous persons to abuse the process of law, to settle their personal score in the guise of service dispute. Therefore, this Court has no hesitation to hold that this petitioner does not have any locus to maintain this writ petition for more than one reason, as he has already been considered to be a frivolous litigant by the Division Bench of this Court.”

4. The aforesaid extract is self explanatory. As such, the petitioner herein, who is not an employee and is a third party, cannot maintain the present Writ Petition. Hence, the prayer sought for by the petitioner in this Writ Petition, does not deserve consideration.

5. Accordingly, the Writ Petition stands dismissed. No costs.

21.02.2023

Speaking/Non-speaking Order

Internet: Yes/No

Index: Yes/No

Neutral Citation: Yes/No

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M.S.RAMESH, J.

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