



WEB COPY



W.P.No.5373 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5373 of 2023
and W.M.P.No.5395 of 2023

T. Mary Shalini

... Petitioner

Vs.

1.The Correspondent,
St.Mary's Girls Higher Secondary School,
Vellore District,
Vellore – 632 001.

2.The Joint Director (Secondary Education),
Commissionerate of School Educational,
Chennai – 600 006.

3.Mr.Bala

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the letter dated 11.02.2023 calling upon the petitioner to submit her further explanation to the report of the enquiry officer/third respondent dated 24.01.2023, quash the same and consequently direct the first respondent to conduct a de-novo enquiry pursuant to the charge memo dated 08.06.2022 by appointing a neutral enquiry officer than the third respondent.



WEB COPY



W.P.No.5373 of 2023

For Petitioner : Mr.S. Mani

For Respondents : Mr.R.V. Dinesh Kumar, [R1 & R2]
Additional Government Pleader

ORDER

Mr.R.V. Dinesh Kumar, learned Additional Government Pleader, takes notice for the respondents 1 & 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Based on a set of proven charges in the inquiry report dated 24.01.2023, the petitioner was called upon to render her further explanation through notice dated 11.02.2023, which is put under challenge in the present Writ Petition.

3. Pursuant to the levelled charges in the Charge Memo dated 08.06.2022, the Disciplinary Authority had appointed an Inquiry Officer through a letter dated 14.07.2022, which came to be challenged by the petitioner before this Court in WP.No.19158 of 2022. The grievance expressed by the petitioner in the earlier round of litigation is that the list of witnesses in Annexure - 2 of the Charge Memo, was not furnished to



W.P.No.5373 of 2023

her. In this connection, she has given a representation on 25.06.2022, seeking for copies of the documents mentioned in the Charge Memo, which was also not furnished. When the Writ Petition was taken up for final disposal on 18.08.2022, it was represented that the copies of the documents and the details of witnesses were furnished during the course of inquiry. In view of such a statement made, this Court had disposed of the Writ Petition, by granting liberty to the petitioner to raise her objections for marking of documents and seeking for cross examination of witnesses.

4. It is in this background, the inquiry dated 24.01.2023 was made and the consequential impugned notice dated 11.02.2023 issued to the petitioner, calling for her further explanation. The petitioner had not challenged the order of this Court passed in WP.No.19158 of 2022 dated 18.08.2022.

5. When the petitioner had subjected herself to the inquiry proceedings and the Inquiry Officer had also submitted his report, it is not now open to her, to question the validity of the inquiry report. In a



W.P.No.5373 of 2023

departmental action, when the charges are held to be proved, the next stage to be adopted by the Disciplinary Authority is to extend an opportunity to the petitioner, to give her objections to the inquiry report about the proposed action to be taken. At this stage, the petitioner cannot revert back and question the Inquiry Officer's report, which inquiry was conducted based on the earlier orders of this Court whereby, liberty was granted to the petitioner to raise objections, to marking of the documents, as well as for cross-examining the witnesses.

6. In this background, the option available to her would be to await for the final outcome of the disciplinary proceedings and therefore, it would be imperative on her part to render her further explanation. Hence, the challenge to the impugned notice calling for further explanation, is preemptive attempt and hence, no interference is required to the impugned notice.

7. Accordingly, the Writ Petition stands dismissed, with liberty to the petitioner to render her further explanation pursuant to the further notice dated 11.02.2023, within a period of seven (7) days from the date



W.P.No.5373 of 2023

of receipt of a copy of this order. On receipt of such explanation, the Disciplinary Authority shall take further course of action in accordance with the procedures contemplated under law. No costs. Connected miscellaneous petition is closed.

23.02.2023

Speaking/Non-speaking Order

Internet: Yes/No

Index: Yes/No

Neutral Citation: Yes/No

Sni

To

The Joint Director (Secondary Education),
Commissionerate of School Educational,
Chennai – 600 006.



WEB COPY



W.P.No.5373 of 2023

M.S.RAMESH, J.

Sni

W.P.No.5373 of 2023

23.02.2023