



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.5410 of 2020

and

W.M.P.No.6334 of 2020

Dr.I.Amalraj

... Petitioner

Vs.

1.The Secretary and Correspondent,
Loyola College (Autonomous),
Nungambakkam, Chennai – 600 034.

2.Rev. Fr. Provincial,
Madurai Jesuit Province,
Governing Body Chairman of Loyola College,
St. Mary's Residence, P. Box No.6,
Dindigul – 624 001.

3.The State of Tamil Nadu,
Rep. by its Secretary Education Department,
Fort St. George, Chennai – 600 006.

4.The Director of College Education,
9th Floor, EVK Sampath Building,
College Road, Chennai – 600 006.

5.The Regional Joint Director of College Education,
Office of the Regional Joint Director of Collegiate Education,
Institute of Advanced Study in Education Campus,
Saidapet, Chennai – 600 015.

... Respondents



Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned show cause notice dated 08.02.2020 issued by the 1st respondent and to quash the same as illegal, unreasonable, arbitrary and contrary to law.

For Petitioner	: Mr.Akash Srinanda For M/s.Nithyaesh and Vaibhav
For R1	: Mr.P.Godsom Swaminath For M/s.Issac Chamber
For R2	: Mr.T.Chezhiyan Additional Government Pleader

ORDER

The writ petition has been filed challenging the show cause notice issued by the 1st respondent on 08.02.2020.

2. The learned counsel for the petitioner submitted that the 1st respondent has issued impugned show cause notice in an arbitrary manner despite the Enquiring Officer's report said that the allegations against the petitioner and others are not true. However, the Disciplinary Authority has taken a different view and proceeded to issue show cause notice calling upon



explanation. The petitioner has already filed another writ petition in W.P.No.16679 of 2018 by challenging the order of the 1st respondent dated 12.06.2018. The impugned order involved in that writ petition is order of punishment imposed by the Authority immediately after his decision to dissent with the report of the Enquiring Officer. In the said petition the following orders have been passed:

“2. In view of the undertaking given by the learned counsel for the writ petitioner, the impugned show cause notice issued in proceedings dated 12.06.2018 is quashed. The respondents are at liberty to issue a fresh Show Cause Notice setting out all facts and circumstances and the reasons for deviating the Enquiry Report and communicate the same to the writ petitioner. The writ petitioner is at liberty to submit his objections / explanations in respect of the Show Cause Notice to be issued and only thereafter, the Competent Authority is empowered to consider the materials available on record, take a decision and pass final orders in the disciplinary proceedings.”

3. In the present case, the show cause notice has been issued in consonance with the above order. The issuance of show cause notice is only



at beginning stage. Only after the petitioner submits his explanation and his employer refuses to accept his explanation and decides to frame charges, thereafter only the disciplinary proceedings will be initiated. The petitioner has approached this Court at a premature stage. Hence, the relief sought by the petitioner cannot be granted.

4. A similarly placed person had already retired from service and has also filed a writ petition in W.P.No.4561 of 2020 and the relevant portion of the order passed in the said writ petition has been extracted hereunder;

“8. Even in the opinion of the petitioner, the Dissent Note is not considered and he has been given with an opportunity to submit his explanation and the petitioner can very well exhaust the same by way of submitting his explanation. On receiving the same, the 1st respondent shall consider the explanation submitted by the petitioner in the light of the existing situation, where the petitioner had already retired and also the permission given by the respondents to the petitioner to travel abroad. However, in the said permission, it has been observed that there was no disciplinary proceedings pending as against the petitioner and it appears that the 1st respondent also did not have



any grudge against the petitioner. Hence, if the petitioner himself puts forth his explanation to the 1st respondent, the same shall be considered in accordance with its own merits within a period of four weeks from the date of receiving the explanation submitted by the petitioner.”

5. Since this show cause notice originates from the same enquiry report and for the same transaction, the petitioner can also exhaust the opportunity given to him by way of submitting his explanation. On receiving the same, the respondents shall consider the same and pass appropriate orders on merits and in accordance with law within a period of four (4) weeks from the date of receiving the explanation submitted by the petitioner.

6. With the above directions, this Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

20.11.2023

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Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order



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R.N.MANJULA, J.

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