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W.P.No. 9320 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 9320 of 2023
and
W.M.P.Nos. 9417 & 9418 of 2023

S. Seemon Arulraj

Versus

...Petitioner

1. The Chief Educational Officer
Chief Educational Office
Krishnagiri District.

2. The District Educational Officer (Elements)
District Educational Office
Govt. Hr. Sec. School Campus
Mullai Nagar, Hosur.

3. The Block Educational Officer
Block Educational Office
Shoolagiri
Krishnagiri District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, prays to call for the records in ROC.No. 1005/A2/2021, dated 27.06.2022 on the file of the third respondent, quash the order of suspension dated 27.06.2022 issued by the third respondent and to direct the respondents to reinstate the petitioner as Secondary Grade Teacher in Panchayat Union Primary School in Thekkalapalli in Shoolagiri Block in Krishnagiri District with all attendant benefits.



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For Respondents : Mrs. R. Anitha
Special Government Pleader

ORDER

This writ petition is filed challenging the order in R.O.C.No.1005/A2/2021, dated 27.06.2022 passed by the third respondent and the consequential direction to the respondents to reinstate the petitioner as Secondary Grade Teacher in Panchayat Union Primary School at Thekkalapalli, Shoolagiri Block, Krishnagiri District, with all attendant benefits.

2. According to the writ petitioner, he is working as Secondary Grade Teacher in Shoolagiri Panchayat Union Primary School at Thekkalapalli in Krishnagiri District and now he is under suspension since 27.06.2022. He was appointed as Secondary Grade Teacher in Panchayat Union Primary School in Ponnalnathan, Shoolagiri Block in Krishnagiri District on 29.04.2005 and he was working in the said school until the petitioner was placed under suspension by the third respondent on 27.06.2022, vide his proceedings in ROC.No. 1005/A2/2021, dated 20.07.2022. The third respondent issued a memo under Rule 17(a) of the

Tamil Nadu Civil Services (Discipline and Appeal) Rules, vide his



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ROC.No. 1005/A2/2021, dated 04.01.2022 and sought the petitioner's explanation for the allegation that the third respondent received a complaint from one Mr.R.Solomon on 20.12.2022 alleging that the petitioner was functioning as Honorary Secretary of a Church in Church of South India. The third respondent further stated that this was against Rule 14 of the Tamil Nadu Government Servants Conduct Rules. The third respondent further directed the petitioner to submit his reply to the show cause notice dated 04.01.2022. The petitioner submitted his reply to the third respondent. The third respondent placed the petitioner under suspension under Rule 17 (e) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules with immediate effect from the post of Secondary Grade Teacher in Panchayat Union Primary School at Thekkalapalli, Krishnagiri District. However, enquiry was conducted against the petitioner and no order has been passed by the third respondent and it is illegal to keep the petitioner under prolonged suspension since 27.06.2022. Hence the petitioner prays that if the order of suspension is not revoked, the petitioner would be prejudiced and he will be put to hardship. Therefore, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

3. Heard the learned counsel for the petitioner as well as the



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perused the materials available on record.

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4. On a perusal of the records, it is seen that the petitioner joined as Secondary Grade Teacher under the Panchayat Union Primary School at Thekkalapalli, Krishnagiri District on 29.04.2005. The third respondent issued a show cause notice dated 04.01.2022 to the petitioner in respect of allegations levelled against him and explanation was given to the third respondent with respect to charge Nos. 1 to 4 and enquiry was conducted under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner was working as Secondary Grade Teacher as well as functioning as a Secretary of Private Church in South India. As per Rule 14(A) of the Tamil Nadu Government Servants Conduct Rules 1964, the respondents have initiated disciplinary proceedings against the petitioner. While so, he was working as a school teacher as well as he has been elected as a Secretary belonging to a Private Church on the allegations made on 25.07.2021 and 03.08.2021. He has been working in the School as well as Church, which is contrary to the Tamil Nadu Government Subordinate Service Rules.

5. The learned counsel for the petitioner relied upon the decision of this Court **J. Magesh Santhakumar v. The Secretary to Government,**



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MANU/TN/7509/2022, wherein the relevant Paragraph Nos. 15 to 17

which reads as follows:-

"15. The learned counsel for the 6th respondent would further submit that the very similar issue already came up for consideration before this Court by way of Public Interest Litigation in W.P.(MD) Nos. 10132 of 2015 and the same came to be dismissed by order dated 29.10.2021 in the following terms:-

" 5. It is the case of the petitioners that the Diocese is running a number of Educational Institutions aided by the Government and Teaching and non-Teaching staffs of such aided schools, who are paid from Government fund are contesting in election for holding the posts in religious institutions, which is contrary to Rule 14-A of the Tamil Nadu Government Servants Conduct Rules, 1973.

6. as per Rule 14-A of the Tamil Nadu Government Servants Conduct Rules, 1964, the Government Servants are prohibited from being a member of, or be otherwise associated with any organization which promotes or attempts to promote disharmony or feelings of enmity or hatred or ill-will between different religious, racial, language or regional groups or castes or communities on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever. As regards participation in purely religious activities, the freedom to profess and practice any religion is guaranteed under Article 25 of the Constitution of India. The Government servants while they are free to profess and practice any religion in their private lives, should conduct themselves in public as to leave no room for any impression to arise that they do not subscribe to the secular philosophy of the State. The Church of South India Diocese is having its own rules, regulations or by-laws to govern the affairs and conduct of the teaching and non-teaching staffs employed in the Schools which are functioning under the Diocese. Rule 16(1) of the Tamil nadu Recognised Private Schools (Regulation) Rules, 1974, prescribes the code of conduct for Teachers and non-teaching staffs employed in private schools. As per Rule 8 of the said Rules, no teacher or other person employed in a private school shall contest or participate in or canvass



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for any elections. Such restriction will not, however, apply to the teachers in respect of elections to the Teachers-Constituencies.

7. The second respondent, namely, the Secretary, the School Education Department filed a counter-affidavit, wherein, he has specifically stated that in the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules made thereunder, there is no provision dealing with the issue of the teaching and non-teaching staff contesting in an election and holding the posts in the third and fourth respondents organization. In these circumstances, the second respondent submitted that the contention of the petitioner to take action to forbear the staffs of the third and fourth respondents Educational Institutions from contesting in election and holding the posts in the third and fourth respondents religious organization and to take appropriate action on the staff holding such posts based on the petitioners representation is not permissible for the reason that there is no such provision available in the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rules made thereunder enabling the Educational Authority to issue such direction.

8. In view of the specific stand taken by the Secretary, the School Education Department to the effect that there is no provision under the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, against the teaching and non-teaching staffs, the prayers sought for in the Writ Petitions are liable to be rejected. Accordingly, the Writ Petitions are devoid of merits and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

16. Even assuming those provisions under the Tamil Nadu Recognized Private Schools (Regulation) Act and Rules and the Tamil Nadu Government Servants Conduct Rules are applicable, the said Rules does not put any embargo against any employees of either private schools or the Government Employees from taking part in any Church election or taken part in any religious organization which does not cause any disharmony or feelings of enmity, hatred or ill-will.

17. The Rule 14-A of the Tamil Nadu Government Servants



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Conduct Rules, 1964 only prohibits the Government Servant from becoming a member of any association or organization which promotes disharmony or feelings of enmity, hatred or ill between different religious, racial, language, caste community or regional group. Likewise, Rule 23 of the Tamil Nadu Government Servants Conduct Rules, 1973, which only restricts the Government Servants to engage or participate in any activities which are anti-secular or which is prejudicial to the interest of the sovereignty and integrity of India."

6. Taking note of the above decision, the petitioner herein is a Government servant but he had also been doing Church activities. At this juncture, this Court is not inclined to give any opinion on the issue on hand. This Court directs the authorities concerned to conduct an enquiry on the disciplinary proceedings issued by the third respondent against the petitioner herein in ROC.No.1005/A2/2021, dated 27.06.2022 as expeditiously as possible and appropriate orders to be passed in accordance with law before the first week of October, 2023.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.



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Index by : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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