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Writ Appeal No.838 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.11.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.838 of 2020
and C.M.P.No.10633 of 2020**

Dr.R.Agila,
Professor – Agricultural Extension

... Appellant

Vs

1. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore.

2. The Professor and Head,
Tamil Nadu Agricultural University,
Rice Research Station,
Tirur, Thiruvallur District.

3. The Chairman,
Fact Finding Committee (FFC),
Programme Co-ordinator,
Krishi Vigyan Kendra,
Tirur, Thiruvallur District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 22.07.2020 made in W.P.No.9585 of 2020.



Writ Appeal No.838 of 2020

For Appellants : Mr.Row and Reddy

For Respondents : Mr.Vijay Mehanath
Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This intra-court appeal has been directed against the order passed by the Writ Court dated 22.07.2020 made in W.P.No.9585 of 2020.

2. Before the Writ Court, the appellant moved the said writ petition seeking for a prayer to dissolve the fact finding committee appointed by the respondent/institution to go into the complaint given by the petitioner/appellant with regard to the alleged theft of certain articles or belongings of the petitioner/appellant from the almyrah, which was maintained by her along with yet another teaching faculty in the institute, where she was working.

3. The learned Judge, who heard the writ petition, had dismissed the said writ petition by giving a finding that it was clearly a motivated complaint given by the petitioner/appellant and this finding had been



given by the learned Judge of the Writ Court at the very admission stage itself without giving notice to the respondent/University.

3. Aggrieved over the said order passed by the Writ Court, this appeal has been directed.

4. Mr.N.G.R.Prasad and Govardhanan of M/s.Row and Reddy, learned counsel appearing for the appellant would contend that, when the appellant had made a complaint to her immediate superior about the theft of her personal belongings on 28.05.2020 from the almyrah that was maintained by her in the office premises, that action amounts to an alleged theft, therefore, it should have been referred to the concerned Police as it is a cognizable offence and accordingly, the concerned jurisdictional police alone is empowered to enquire the matter and come to a conclusion. However, without referring the matter to the Police for enquiry, the respondent/University decided to appoint a fact finding committee consisting of three faculties and such constitution itself is without jurisdiction or taking the function of the Police as per the procedure established under the Criminal Procedure Code. Therefore, challenging the appointment of the said fact finding committee the writ



petition was moved, however, the same was not considered in proper perspective by the learned Judge, who in fact swayed by the view expressed by the learned Special Government Pleader, who claimed to have appeared for the University and accordingly, a cryptic conclusion has been arrived at by the Writ Court and ultimately, the writ petition was dismissed and the same is liable to be interfered with, he contended.

5. However, on the other hand, learned Standing Counsel appearing for the respondent/University, on instructions, would submit that prior to the alleged date of the theft i.e., 28.05.2020, on 18.05.2020 and 19.05.2020, the appellant/writ petitioner came to the office and thereafter, she did not attend the office and there had been a continuous absence on the part of the appellant/writ petitioner and there was a complaint of some of the staffs attached with the appellant/writ petitioner that she scolded her co-staffs and made serious allegations against the appellant/writ petitioner, a complaint to that effect had been given to the authorities of the University and therefore, the University thought of enquiring both matters i.e., the complaint given by the co-staff against the appellant as well as the complaint given by the appellant for the alleged theft in order to *prima facie* find out the truth and accordingly,



the fact finding committee was instituted and appointed, for which, the University is empowered to, he contended.

6. The learned Standing Counsel would further submit that this aspect having been considered by the learned Judge, who has come to a right conclusion that such kind of constitution of the fact finding committee is possible to the authority of the University, therefore, it cannot be interfered with and moreover, the further finding that has been given by the learned Judge that in order to overcome the complaint given by the co-staff against the appellant/writ petitioner she had come forward to give this complaint of alleged theft, therefore it was clearly a motivated one, this was also the finding given by the learned Judge of-course correctly. Therefore, the learned Standing Counsel appearing for the respondent/institution would submit that the said judgment of the learned single Judge does not require any interference at the hands of the Division Bench, he contended.

7. We have carefully considered the rival submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.



8. Insofar as the present lis is concerned, we need not go into the complaint if any or allegation if any had been made against the writ petitioner/appellant by any of the staff or co-staff of the University/institution. As in respect of those complaints it is always open to the University Authorities to take the complaint and based on which, whatever necessary action i.e., Disciplinary action can very well be taken in accordance with the relevant service regulations. However, insofar as the complaint that has been given by the writ petitioner/appellant about the alleged theft of her personal belongings, which alleged to have been stolen from the Almyrah placed in the office i.e., institute maintained by or handled by the appellant/writ petitioner is concerned, it is a serious allegation of theft. Therefore, such an allegation should have been referred only to the concerned jurisdictional police for investigation and to allow the police to reach their logical conclusion after completing the investigation.

9. However, the respondent/University has not chosen to forward such complaint given by the appellant/writ petitioner to the concerned jurisdictional police, for which no plausible reason has been given before us.



10. Even we have given one more chance to produce the report, if any filed by the fact finding committee, only a short report not a final report or a detailed report filed by the fact finding committee has been placed before this Court, where the fact finding committee *inter alia* has stated that there is a possibility of misplacing the laptop and not missing from the office premises.

11. This kind of suggestion or conclusion cannot be arrived at by the fact finding committee because, if there is an allegation of theft has been made, it is a serious allegation, which should have been enquired only by the jurisdictional police as it is one of the offences punishable under the provisions of IPC. Therefore, the investigation has to be necessarily conducted by the jurisdictional police as per the procedure contemplated under the Criminal Procedure Code.

12. When that being so, such a job, which is otherwise be undertaken by the jurisdictional police cannot be taken at the hands of the fact finding committee and based on any suggestion or conclusion that has been arrived at by the fact finding committee, a conclusion or quietus of the issue cannot be given.



13. A quietus can be given to the issue only by the jurisdictional police, after thorough investigation they may either find the culprits and file a charge sheet or even they may come to a conclusion that it is a mistake of fact, whatever be that conclusion that is going to be arrived at by the jurisdictional police that must be taken only after the full-fledged investigation to be conducted by them in the manner known to law.

14. Therefore, without giving any chance to the police and without making any reference of this complaint to the police, the respondent/University cannot withhold the same by concluding it taking into account of the report if any filed by the fact finding committee. Therefore, we are of the view that the said approach of the learned Judge in rejecting the plea raised by the writ petitioner/appellant in the writ petition is totally misconceived and untenable.

15. The afore-stated discussions and aspects have not been considered in proper perspective by the learned Judge in the impugned judgment, therefore, we are inclined to interfere with the said judgment, which is impugned herein.



16. Resultantly, the following orders are passed in this writ appeal:

- ◆ That the impugned judgment is set aside. As a sequel, there shall be a direction to the respondent/institute to refer the complaint given by the appellant/writ petitioner on 28.05.2020 on the alleged theft of her personal belongings at the office premises, to the concerned jurisdictional police within a period of one week from the date of receipt of a copy of this order.
- ◆ On receipt of such complaint, the jurisdiction police shall enquire the matter, investigate the same and come to a conclusion based on the evidences to be collected by the police.
- ◆ Insofar as the other allegations that has been made against the writ petitioner/appellant is concerned, it is open to the respondent/institute to look into the matter, where if necessity arises they can even initiate disciplinary proceedings against the petitioner/writ appellant and if any such proceedings is initiated, it is needless to mention that the procedure to be followed in taking any disciplinary proceedings should be strictly followed by giving an opportunity to the petitioner/appellant in all respects.



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With these observations and directions, this writ appeal is allowed

to the term indicated above. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.)

(G.A.M., J.)

21.11.2023

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

mp

To

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