



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.24166 of 2021

Dr.N.Veerappan

.. Petitioner

Vs.

1.State of Tamil Nadu

Represented by the Principal Secretary,
Backward Classes, Most Backward
Classes and Minorities Welfare (BC3)
Department, Fort St. George,
Chennai – 600 009.

2.Tamil Nadu Vanniyakula Kshatriya

Public Charitable Trusts and
Endowments Board, represented by its
Chairperson,
Chennai – 600 008.

3.The Chairman

P.T.Lee Chengalvaraya Naicker Trust,
2-3, E.V.K Sampath Salai,
Vepery, Chennai – 7.

4.Board of Trustees,

P.T.Lee Chengalvaraya Naicker Trust,
Represented by Secretary,
2-3, E.V.K. Sampath Salai,
Vepery,
Chennai – 7.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent in G.O.(2D) No.21 dated 29.10.2021, Backward Classes, Most Backward Classes and Minorities Welfare (BC3) Department and to quash the same.

For Petitioner	.. Mr.G.Murugendran
For R1	.. Mr.R.Shanmugasundaram, Advocate General Assisted by Mr.Gokulkrishnan, Additional Government Pleader
For R2	.. Mr.P.Kumaresan, Additional Advocate General For Mr.Gnanasekar
For R3	.. Mr.M.R.Jothimanian
For R4	.. Mr.E.Manokaran



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ORDER

This writ petition has been filed in the nature of a Certiorari seeking records of the 1st respondent / the State of Tamil Nadu represented by Principal Secretary, Backward Classes and Minorities Welfare (BC3) Department, Fort St. George, Chennai – 600 009 in G.O.(2D) No.21, dated 29.10.2021 and to quash the same.

2.The writ petitioner / Dr.N.Veerappan S/o. D.Narayanasamy, resident of Chennai, had claimed that he possesses a Master Degree in Botany, besides Doctorate and other Degrees. He worked as Management Lecturer at Sir Thyagaraya College, Chennai and retired as Associate Professor in the year 2015. He further claimed that he had engaged himself in educational activities by helping students, especially poor students belonging to Vanniar community to get proper education. He also claimed that he had published several articles, both in international and national Journals. He also stated that he had served as an Academic Council Member and Standing Committee Member, besides as a Senate Member of the Madras University.



3.The petitioner further stated in his affidavit that he had been appointed as a Trustee in P.T.Lee Chengalvaraya Naicker Trust by the order of the 1st respondent, in G.O.(Ms).No.81 dated 07.11.2020. A Scheme Decree had been passed in C.S.No.242 of 1986 by a learned Single Judge of this Court on 01.04.1999, which was also tested in appeal in O.S.A.Nos.115 of 1999, 144 of 1999 and 14 of 2001 where few modifications were made by the Division Bench, but the Scheme Decree came into operation. Under the Scheme Decree, in accordance with the persons who could be eligible to be nominated as a Member of the Board, the petitioner was also nominated consequent to his qualifications as somebody learned as a professor and engaged in educational activities.

4.The petitioner thereafter stated that though he was working sincerely for the interests of the trust and had participated in the Board Meetings and assisted, according to him, for better administration, he received an order from the 1st respondent dated 29.10.2021, in which it was stated that, he and another Trustee, D.Gubendragunabalan, who had incidentally filed another writ petition in W.P.No.24181 of 2021 were both removed from Trusteeship. Claiming that prior notice was not served and



that enquiry was not conducted and there has been violation of the principles of natural justice, this present writ petition has been filed seeking to interfere with the said order.

5.The petitioner placed reliance on Section 58(3) of the Tamil Nadu Vanniyarkula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Act, 2018 and claimed that before any order can be passed terminating him from the Trusteeship, notice should have been given and principles of natural justice should have been adhered to.

6.During the course of arguments, the grounds had been expanded to state that the removal had caused stigma on his reputation, which directly affected his reputation and also affected his reputation to live with dignity and therefore, there was a direct violation of Article 21 of the Constitution of India. It was also stated that the Chairman had taken an independent decision to remove him. The learned counsel for the petitioner wondered as to whether the said decision of the Chairman had been put before the Board for ratification and whether the Board Members had accepted the said decision of the Chairman of the Trust. It must be incidentally pointed out



that the Chairman was a former Judge of this Court. Claiming prejudice had been caused owing to passing of G.O.(2D).No.21, this writ petition has been filed seeking interference with the said order so far as the petitioner is concerned.

7.Since, I have made a mention about the other writ petition W.P.No.24181 of 2021 filed by D.Gubendragunabalan, I must state that the said writ petition came to be dismissed today, consequent to an endorsement made by the learned counsel for the petitioner seeking withdrawal of the said writ petition.

8.The petitioner herein has therefore alone challenged his removal as a Trustee of the trust.

9.Heard arguments advanced by Mr.G.Murugendran, learned counsel for the petitioner and Mr.R.Shanmugasundaram, learned Advocate General for the 1st respondent and by Mr.P.Kumaresan, learned Additional Advocate General for the 2nd respondent and Mr.M.R.Jothimanian, learned counsel for the 3rd respondent and Mr.E.Manokaran, learned counsel for the 4th respondent.



10.A counter affidavit had been filed. Reliance had been placed on Section 64 of the aforementioned Act, under which, the petitioner had been appointed as a Trustee, which also gives the power to remove a Trustee. It was also contended that the post which the petitioner held was a Honorary post and therefore, the necessity to adhere to principles of natural justice could not be invoked by the petitioner herein.

11.Insofar as the allegations relating to the procedure adopted, the learned Advocate General submitted the records from which it is found that the Chairman had given a report that the petitioner herein had unfortunately got involved in a criminal case registered against him by the Central Crime Branch, Chennai, under Sections 468 and 471 of IPC, which relates to forgery and as a matter of fact, it is stated that he had forged his own mark sheet of Post Graduate M.Sc., Degree Course and therefore the Chairman was of the opinion that the petitioner was no longer justified to hold the post as Trustee. This opinion of the Chairman had been put before the Board. It is contended by the learned Advocate General that on the basis of the records produced, all the other Board members had accepted the view of the Chairman and had taken an unanimous decision to remove the petitioner herein.



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12. So far as communicating that particular decision to the petitioner herein is concerned, the learned Advocate General, pointed out that the Board was of the opinion that a stigma should not be attached against the petitioner in view of the nature of the charge since if it were so put up, it would only affect the reputation of the petitioner herein and it was in the good interests of the petitioner that the decision was taken and the result of the decision alone was communicated to the petitioner herein.

13. The Chairman was also represented in this writ petition and the learned counsel stated that the Chairman had applied his mind and had arrived at subjective satisfaction relating to the position of the petitioner herein and that his continuance as a Trustee would directly affect the reputation of the Board and therefore, a conscious decision had been taken to remove him as a Trustee of the Trust. The petitioner had been made a trustee only on the basis of his educational qualification and when the charge was that those certificates were forged, the Chairman was of the opinion that the petitioner was no longer eligible or suitable to hold the office of a trustee.



14.I have carefully considered the arguments advanced on either side and perused the materials available on record.

15.The petitioner, Dr.N.Veerappan, in his affidavit had claimed that he possesses a Masters Degree in Botany and thereafter, consequent to obtaining that Masters Degree, had done his Doctorate and had also worked as Assistant Professor and Lecturer in various colleges and even after his retirement, had engaged himself in educational activities by helping students of Vanniyar Community to get proper education.

16.Quite unfortunately to his direct knowledge, a First Information Report had been registered against him, in Crime No.198 of 2017 by the Central Crime Branch, Chennai, under Sections 465, 468, 471 and 420 of IPC read with Section 109 of IPC.

17.The petitioner herein was the first accused and to his disadvantage, the second accused, who was the former Controller of Examination, had turned approver and had been granted pardon, after following the due procedures as laid down under Sections 306 and 307 of Cr.P.C.



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18. At any rate, the Investigation officer, after investigation, had thought it fit to file a final report under Section 173 (2) of Cr.P.C. The jurisdictional Magistrate, namely the Special Court to try cases registered under the Crime Branch, had also taken cognizance of the final report and had issued summons to the petitioner / 1st accused. Taking cognizance and issuing summons, is a Judicial order and can be done only after application of mind, not only on the allegations in the final report, but also on the charges alleged and whether the charges are made out or not and whether the accused should stand trial or not.

19. The petitioner herein therefore, cannot rely on his claim of being qualified as a Master of Science in Botany. Among other charges are that he had by some means, changed his marks to give it a better colour. If that charge sustains, then the entire qualification on which he relies and claims that he should act as a Trustee as a member in the educational field, would itself collapse.

20. The petitioner had taken up that particular issue and had filed CrI.O.P.No.22414 of 2019, which came up for consideration before a learned Single Judge of this Court. By order dated 22.06.2022 the Criminal



Original Petition had been dismissed and trial was directed to be conducted.

These materials provided on behalf of the respondents throws new light on the petitioner herein.

21.As a matter of fact, these facts were known to the petitioner. It is only appropriate that he should appreciate the stand of the respondents that they have not publicized these facts. As a Trustee of a reputed Trust, which has been in existence for nearly about more than 75 years, the petitioner should ensure that he should not be a cause for stigma on the Trust.

22.Be that as it may, the respondents also stated that the principles of natural justice would not apply to this case, because the petitioner was only holding an Honorary post.

23.Let me now examine Section 64 of the Act. Section 64 of the Act reads as follows:

64.Power of appointment and removal of trustee or administrator when to be exercised by the Government.-

Where a deed of trust or endowment, or any decree or order of



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a Court or any scheme of management of any trust or endowment provides that a Court or any authority other than a Board may appoint or remove a trustee or administrator or settle or modify such scheme of management or otherwise exercise superintendence over trust or endowment, then, notwithstanding anything contained in such deed of trust or endowment, decree, order or scheme, such powers aforesaid shall be exercisable by the Government:

Provided that where a Board has been established, the Government shall consult the Board before exercising such powers.

24. The section is wide enough. It not only provides for appointment of a Trustee, but it also provides for removal of a Trustee. The power of appointment and removal can be exercised by the Government. Here, the opinion of the Chairman had been approved by the Board and thereafter, the opinion was recommended to the Government and the Government then passed the Government Order which is now impugned.



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25.It must be stated that the petitioner was appointed only under Section 64 of the said Act. He was removed under Section 64 of the said Act.

26.The learned counsel for the petitioner placed reliance on Section 58(3) of the said Act and claimed that notice should be given before removal from Trusteeship. Section 58 of the Act relates to removal of a Trustee and Administrator. The said provision start with a non-obstante clause. It states that “*notwithstanding anything contained in any other law or the deed of trust or endowment, the board may remove the trustee*”. The section, according to the learned counsel for the petitioner is quite contradictory to Section 64 of the Act. It is not so. I do not agree with the learned counsel on that particular aspect.

27.Section 58 relates to removal of a Trustee by the Board. The said provision is not applicable to the facts of this case, where the petitioner was removed under Section 64 of the Act.



28. Section 58 provides that even if any other law is in force or even if any trust deed so provides, still notice has to be given. Section 58 does not use the words “*any other provision contained in this Act*”. This provision will have to be read independent of other provisions of the Act. Section 58 would over-ride every other provision in any other law or trust deed, which had been framed independently. But it certainly cannot be read in conjunction with an other provision of the very same Act. The other provision which deals with both appointment and removal is Section 64.

29. Section 64 gives the authority to remove or appoint a trustee. A particular individual can be appointed as a Trustee and by the Government by passing a Government Order under Section 64 of the Act. Further, under Section 64 of the Act, the person who was already a Trustee can be removed by the Government. The Government acts on the recommendations of the Board. Here, the Chairman had given his opinion and the Board had affirmed that opinion of the Chairman. The Board had then communicated that decision to the Government. The Government had then removed the petitioner exercising its power under Section 64 of the Act.



30. Section 58 further relates to removal of a Trustee by the Board themselves. Here the petitioner was not removed by the Board, but under Section 64 by the Government. Section 58 applies when the Board independently removes a Trustee and the Government does not come into the picture. Here, the Government has exercised its power vested under Section 64 of the Act.

31. Section 58 operates on a different scale and Section 64 operates on a different scale. There is a fine distinction between the two provisions.

32. The third issue is about the nature of post which the petitioner had held. The petitioner did not hold the post for salary. He was not paid for his service to the Trust. It was a post of his choice. He had volunteered to be a Trustee. He had attended various Board meetings and he has not charged the Board for remuneration. It was not a post of remuneration. It was a post of a Trust. It was a post granted with a hope that the Trustee would not betray the Board in turn. The petitioner was appointed in a category which was specifically given in the Scheme Decree namely, one person from teaching faculty.



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33. Now that, foundation itself would stand to collapse. If the petitioner is found unfit, after trial, and a judgment is delivered adverse to the interest of the petitioner herein, then his qualification itself becomes questionable. If the qualification is questionable, then he can never come under the teaching category at all. Therefore, it is only appropriate that before the issue precipitates to that extent, the petitioner is afforded an opportunity to contest the charge against him and if he is able to clear his reputation and comes out on acquittal, the option is always left open for him to again act as a Trustee.

34. I would leave that particular issue open. I would only express it as an opinion. So long as there is a stigma of prosecution, the petitioner cannot claim to be a member in the capacity as teaching faculty.

35. The learned counsel for the petitioner had advanced arguments complaining violation of rights guaranteed Article 21 of the Constitution of India.



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36. I would accept that right to live indicates right to live with liberty, and right to live with liberty would also indicate right to live with both liberty and dignity attached, and right to live with dignity attached would also indicate that reputation should not be affected by any act without notice. But, if by an act of the petitioner himself, his reputation is questioned by registration of a First Information Report, by arraying him as an accused, then, it would only be appropriate that the petitioner focuses his attention on clearing that particular stigma, which he had invited by himself. He has a right to live. He has a right to live with liberty. He has a right to live with both liberty and dignity. But when his reputation is questioned, particularly on a charge of forgery, then he must clear himself of that charge of having forged his own mark sheets. That aspect touches upon his reputation. That reputation has been affected not by any act by the respondents, but by his own act. The charge which has been put against him is that he had forged his own mark sheets. Therefore, the issue of reputation would now revolve around him clearing himself of that charge levelled against him.



37.The other issue raised by the learned counsel for the petitioner related on the principles of natural justice. The learned counsel for the petitioner stated that principles of natural justice had been violated in this case.

38.The learned counsel for the petitioner relied on a judgment of the Hon'ble Supreme Court reported in *(1983) 1 SCC 124, Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni and Others*. That case was with respect to a departmental enquiry. A departmental enquiry was initiated against the delinquent by his employer. There was a contractual relationship between the delinquent and his employer who enforced departmental enquiry.

39.In the instant case, there is no contractual relationship. The petitioner was not under contract with the Trust. The petitioner was only a Honorary member of the Trust. There is no agreement. There is no contract. There is no obligation held out to the petitioner that he must continue in eternity as trustee. If the petitioner had suffered a stigma to his reputation by inviting charges against him, the Government has a right and duty to



protect the reputation of the Trust and also if the petitioner has to be removed, he has to be removed. This judgment of the Hon'ble Supreme Court would not apply to the facts of this case.

40. The learned counsel then relied on another judgment of the Hon'ble Supreme Court reported in **(1993) 3 SCC 259, D.K. Yadav Vs. J.M.A. Industries Ltd.** That case related to termination of service. The word “service” would indicate offering of labour for remuneration. Therefore, once remuneration aspect comes in, then service cannot be frustrated without opportunity being granted.

41. The petitioner herein stands on a different footing. He is not under the service of the Trust. He is not a paid employee of the Trust. There is no contractual obligation between him and the Trust. Therefore, this judgment would also not come to the rescue of the petitioner.

42. The learned counsel for the petitioner then relied on yet another judgment of the Hon'ble Supreme Court reported in **(2003) 8 SCC 361, State of Bihar Vs. Lal Krishna Advani and others.** The respondents therein



were faced with an enquiry under the Commissions of Inquiry Act, 1952.

That particular Act provides that notice has to be issued under Section 8(B) of the Act before any inquiry is initiated or proceeded with. The said Act is a stand alone Act and the provisions relating to notice should be followed in letter and spirit. When those provisions are violated, certainly the Court will come to the rescue of the person concerned.

43.The petitioner herein is not facing any inquiry under the Commissions of Inquiry Act. He was a Trustee. His position as a Trustee was a Honorary post. He was a volunteer to the Trust. He was chosen owing to his qualification. He has now been removed owing to the charge of forging his educational Mark Sheets. This is a charge which he has invited by himself. Therefore, this judgment would also not come to the rescue of the petitioner.

44.The learned counsel for the petitioner further relied on a judgment of the Hon'ble Supreme Court reported in **2022 SCC OnLine SC 386, Pattali Makkal Katchi Vs. A. Mayilerumperumal and Others**, with particular reference that a Chairman cannot act unilaterally. In this case,



the Chairman did not act unilaterally. He gave his opinion. He is authorized to express his formal opinion, which was placed before the Board. The Board examined it. The Board accepted it. The Board forwarded it to the Government. The Government passed the Government Order which is now impugned.

45. The learned counsel for the 3rd respondent relied on a Judgment of the Hon'ble Supreme Court in **(2001) 2 SCC 441, Krishna s/o. Bulaji Borate Vs. State of Maharashtra and Others**. In that case, a Trustee was removed. The applicable law was the Nagpur Improvement Trust Act, 1936. The Hon'ble Supreme Court held that his post was a post of pleasure. It was therefore stated that principles of natural justice would not apply. The facts of this judgment are more in line with the facts of the present case. It had been held as follows:

“5. This order was challenged by the appellant through a writ petition before the High Court. The High Court dismissed the writ petition (impugned order) by holding that Section 6 is an independent power for the removal of a trustee falling under



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Section 4(1)(e), notwithstanding what is contained in Section 10. The initial appointment of the appellant is under Section 4(2) which is under the doctrine of pleasure hence in such termination there could be no question of violation of any principle of natural justice. It further held, when power is exercised under Section 6, the provisions of Section 10 are not attracted. Hence before the impugned order there would not arise any question of giving an opportunity, in effect there cannot be any violation of the principle of natural justice. Aggrieved by this the appellant has filed the present appeal.

11. Once doctrine of pleasure is applicable neither the principle of natural justice would step in nor any question of giving an opportunity before removal would arise. It is significant when stigma is cast then sub-section (3) of Section 10 specially provides for giving an opportunity to such incumbent before passing an order of removal under Section 10, while there is no such corresponding sub-section under Section 6. Thus intent of legislature is very clear which



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reinforces the inference which we have drawn that doctrine of pleasure is implicit under Section 6. In Om Narain Agarwal v. Nagar Palika, Shahjahanpur [(1993) 2 SCC 242] this Court was considering the provisions of Section 9 of the U.P. Municipalities Act, 1916 as introduced by U.P. Act 19 of 1990, which made provision for the nomination of two women members by the State Government, and the fourth proviso provides that the nomination of such two members is at the pleasure of the State Government. This Court held: (SCC p. 254, paras 11-12)

“The initial nomination of the two women members itself depended on the pleasure and subjective satisfaction of the State Government. If such appointments made initially by nomination are based on political considerations, there can be no violation of any provision of the Constitution in case the legislature authorised the State Government to terminate such appointment at its pleasure and to nominate new members in their place. The nominated members do not



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have the will or authority of any residents of the Municipal Board behind them as may be present in the case of an elected member. ... But so far as the nominated members are concerned, the legislature in its wisdom has provided that they shall hold office during the pleasure of the Government. It has not been argued from the side of the respondents that the legislature had no such power to legislate the fourth proviso. The attack is based on Articles 14 and 15 of the Constitution.

In our view, such provision neither offends any article of the Constitution nor the same is against any public policy or democratic norms enshrined in the Constitution. There is also no question of any violation of principles of natural justice in not affording any opportunity to the nominated members before their removal nor the removal under the pleasure doctrine contained in the fourth proviso to Section 9 of the Act puts any stigma on the performance or character of the



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nominated members. It is done purely on political considerations.”

46.In the instant case, Section 64 of the Act very specifically gives power to the Government to remove a Trustee. Once the Government is vested with that power and records show that the petitioner is facing trial for serious offence of forging his Mark Sheets, then the petitioner must have to clear his reputation first.

47.In this case, the Board Members had signed the Resolution and only thereafter, had the Government passed the Government Order. I find no infirmity in the same. I am afraid that this Court cannot come to the rescue of the petitioner.

48.In the result, this Writ Petition stands dismissed. No costs.

28.02.2023

Index: Yes/No
Internet: Yes/No
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To
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1. The Principal Secretary,
Backward Classes, Most Backward
Classes and Minorities Welfare (BC3) Department,
Fort St. George,
Chennai – 600 009.
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C.V.KARTHIKEYAN,J.

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