



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDERS RESERVED ON : 24.01.2023

ORDERS PRONOUNCED ON : 27.01.2023

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.1314 of 2023

and

WMP No.1359 of 2023

Dr.M.Elango
Associate Professor
(Under suspension)
School of Architecture and Planning
Anna University
Anna University Campus
Guindy, Chennai 600 025.

...Petitioner

.Vs.

1. Anna University
Rep.by its Registrar
Guindy
Chennai 600 025.
2. The Vice Chancellor
Anna University
Guindy
Chennai 600 025.
3. The Registrar
Anna University
Guindy
Chennai 600 025.

..Respondents



Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for all files and records connected and leading to passing of the order of suspension by the 3rd respondent dated 17.11.2022 in proceeding No.62287/PR20/2005 and to quash the same and consequently direct the respondents to permit the petitioner to hold and continue to discharge his duties as Associate Professor in the 1st respondent university and to grant him all service benefits and entitlements in future in accordance with law.

For Petitioner : Mr.C.S.K.Sathish

For Respondents : Mr.V.Lakshminarayanan
for Mr.V.Meenakshi Sundaram
Standing Counsel

ORDER

This writ petition has been filed challenging the order of suspension issued by the 3rd respondent through proceedings dated 17.11.2022 and for a consequential direction to the respondents to permit the petitioner to discharge his duties as the Associate Professor in the first respondent university.



2.The case of the petitioner is that he is working as an Associate Professor in the Department of Architecture since 09.07.2012. The petitioner was given an additional charge of Deputy Controller of Examinations on 30.07.2016. The petitioner was also made as a joint signatory along with the controller of examination.

3.The 3rd respondent through proceedings dated 17.11.2022 suspended the petitioner in contemplation of an inquiry into grave charges of financial irregularity, misuse of funds and misappropriation that is said to have been committed during the period between 2012 and 2016-2017 to the tune of Rs.65crores. Aggrieved by the same, the present writ petition has been filed before this court.

4.Heard Mr.C.S.K.Sathish, learned counsel for the petitioner and Mr.V.Lakshminarayanan, learned counsel for respondents.

5.The main ground that was urged by the learned counsel for the petitioner when the matter came up for admission on 20.01.2023, was that the Registrar of the University is incompetent to issue the suspension



order under the Anna University statutes. Upon hearing this submission, this Court passed the following order on 20.01.2023:

Mr.Meenakshi Sundaram, learned Standing Counsel takes notice on behalf of the respondents.

2.The short issue that has been raised in this writ petition challenging the suspension order issued by the 3rd respondent is that the 3rd respondent does not have the power or jurisdiction to issue a suspension order insofar as a teaching staff is concerned. To substantiate the same, the Anna University Statutes dealing with disciplinary procedures was produced before this Court. Rule 4(XI) provides that the authority who is competent to place under suspension an University employee shall be as given in Appendix-II to the Chapter. While referring to Appendix-II, it is categorically stated that insofar as the teaching and academic staff, all categories concerned, it is the Vice Chancellor, who is competent to suspend pending an enquiry. In the present case, the suspension order has been issued by the Registrar.

3.When the above was pointed out to the learned Standing Counsel appearing on behalf of the Anna University, the learned counsel sought for time to take instructions.

*4.Post this case in the Motion List on **24.01.2023**.*



6.The matter was taken up for hearing today and Mr.V.Lakshmi Narayanan, learned counsel appearing on behalf of Anna University submitted that the Vice-Chancellor of the University had directed that the petitioner must be placed under suspension and charges must be framed for major penalties. The relevant material was also placed before this Court. The learned counsel submitted that pursuant to the directions issued by the Vice-Chancellor, the Registrar of the University had issued the suspension order dated 17.11.2022. The learned counsel also relied upon Rule 4 (IX) of the Anna University statutes on disciplinary procedure which provides that the order of suspension shall be in the form given in Appendix – III and accordingly, the suspension order was issued in the standard form by the Registrar of the University.

7. The submission made by the learned counsel for the University, sufficiently answers the main issue that was raised by the learned counsel for the petitioner. The decision to suspend the petitioner was taken by the Vice-Chancellor and the suspension order came to be issued by the Registrar, on the directions given by the Vice-Chancellor. This procedure adopted is perfectly in order and it is in accordance with the Anna



University statutes.

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8.The learned counsel for the petitioner also made his submissions on the merits of the case. The learned counsel submitted that the petitioner was only a joint signatory of the cheques and he had nothing to do with the decision-making process. That apart, there is no specific allegation made against the petitioner as to how he is involved in the alleged misappropriation and misuse of funds. The Executive Committee of the Controller Of Examination in the meeting held on 14.10.2016, had ratified the action taken for digitalization of records and the petitioner has already been relieved from the additional charge of Deputy Controller of Examinations and he was performing his duty as the Associate Professor and at that point of time, the suspension order came to be issued against the petitioner.

9.The learned counsel further submitted that the petitioner does not have access to any of the files or documents and there is no possibility of the petitioner tampering with evidence. Hence, there was no necessity to suspend the petitioner. The petitioner will co-operate for the completion of the disciplinary



proceedings within a time frame fixed by this Court and pending the same, the suspension order is liable to be set aside by this Court.

10.The above submissions made by the learned counsel for the petitioner are not grounds to interfere with an order of suspension. An order of suspension can be interfered only when the same has been issued by a person/authority who does not have the power/jurisdiction under the rules or where such a suspension order has been issued by way of punishment or where such a suspension order has been issued to wreck vengeance or with a malafide intention. None of these grounds are available in the present case and the issues raised by the learned counsel for the petitioner cannot be considered by this Court and it can only be raised before the disciplinary authority. Considering the nature of charges levelled against the petitioner, it cannot be held that the order of suspension was not warranted.

11.It was brought to the notice of this Court that charge memo has already been issued to the petitioner on 01.12.2022, by the 3rd respondent. The petitioner made a representation seeking for certain



documents and it is informed that the copies of those documents have also been furnished to the petitioner. The petitioner is yet to give his final reply/explanation for the charge memo issued to him. In view of the same, it will be more appropriate to direct the respondent university to complete the disciplinary proceedings within a time frame.

12. In the result, this writ petition is dismissed and there shall be a direction to the respondents to complete the disciplinary proceedings against the petitioner within a period of **three months** from the date of receipt of a copy of this order, after affording sufficient opportunity to the petitioner. It is also made clear that the petitioner will co-operate for the completion of the disciplinary proceedings within the time frame fixed by this Court without adopting dilatory tactics. No costs. Consequently, the connected miscellaneous petition is closed.

27.01.2023

KP

Internet : Yes

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No



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N.ANAND VENKATESH, J.

KP

Pre-Delivery Order in
W.P.No.1314 of 2023

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