



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **29.09.2023**

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THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

L.P.A.(MD)No.2 of 2023

and

C.M.P.(MD)No.8316 of 2023

Balamurugan

...Appellant

-Vs.-

K.Karpagam

...Respondent

PRAYER:- Letters Patent Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 01.03.2023 in Cont.P.(MD)No.822 of 2022 on the file of this Court.

For Appellant : Mr.C.Mayilvahan Rajendran
For Respondents : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates



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JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.**)

In this Letters Patent Appeal, the challenge is to an order of learned Judge in Cont.P.(MD)No.822 of 2022 dated 01.03.2023. The main premise is that the learned Judge has exceeded jurisdiction in dealing with the matter. While the cause of action in the Contempt Petition was in respect of punishing the contemnor for deliberate and wilful disobedience of order dated 27.04.2022, the learned Judge has proceeded to dispose the matter bringing into play various aspects, that were never contemplated as part of the proceedings.

2.A series of directions have been issued by the Contempt Court, that are as follows:

“i) The 3rd respondent in the writ petitions, viz., the Thoothukudi District, is directed to transfer the petitioners in W.P. (MD) Nos.14823 and 14825 of 2020, viz., the Headmistress and Office Assistant to any nearby school and shall appoint a suitable person having the requisite qualifications as Headmaster in the post occupied by the said petitioner in W.P. (MD) Nos.14823/20 in Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram Taluk, Thoothukudi District, for the smooth running of the school and also in the interest of the welfare of the students;

ii) The District Educational Officer/3rd



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respondent in the writ petition, is directed to invoke Section 18-A of the Act by appointing a Special Officer and bring the school within the direct payment system so that the salary to all the staff, both teaching and non-teaching shall stand disbursed without any hiccups;

iii) The District Educational Officer/3rd respondent in the writ petitions is directed to appoint a honest retired official from the education department, not less than the rank of District Educational Officer, to run the school in the interregnum;

iv) It is further made clear that the Secretary of the school, viz., the petitioner in W.P. (MD) No.14824/20 is working as B.T. Assistant in the school, who is permitted to continue in the post of B.T. Assistant in the very same school;

v) The enquiry, as ordered by this Court in W.P. (MD) Nos. 14823 to 14825/20 shall be taken up and completed as expeditiously as possible and till a quietus is given to the dispute, the arrangement as made above shall continue. The petitioners and the respondent are directed to cooperate in the enquiry for its early completion.”

3.In the earlier hearings, as the parties were poised to embark on their respective submissions in law, it was noted that the rival parties are siblings. The disputes arise in regard to functioning of a school, that has been started by the fore-fathers of the parties. In one voice, learned Counsel had indicated that it would be appropriate that the matter is settled, as they fairly concurred that there had been lapses on both sides, which will be remedied.



4. Earlier orders of this Court on 13.09.2023 and 21.09.2023,

are extracted below to set the present order in context:

“13.09.2023

After some hearing, an amicable resolution appears possible in this matter. Mr. Isacc Mohanlal, learned Senior Counsel for Mr. C. Mayilvahana Rajendran, learned counsel on record for the petitioner would assure the Court that there would be no impediment posed, in fact there has been no impediment posed thus far to the respondent, in resuming her duty as Headmistress of Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram (Taluk), Thoothukudi District.

2. Thus the respondent, namely Ms. Karpagam will assume duty as Headmistress of Muthukaruppan Memorial Higher Secondary School and report for duty tomorrow (forenoon) in time for school assembly. She will occupy the room occupied by her thus far in her position as Headmistress.

3. List on 20.09.2023.”

“21.09.2023:-

Mr. Mayilvahana Rajendran, learned counsel for the appellant and Mr. Mohammed Suhail, learned counsel for the respondent will, together, visit Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram (Taluk), Thoothukudi District today (i.e., 21.09.2023).

2. The purpose of visit will be to ascertain the veracity or otherwise of the submissions that have been made thus far by the parties and including:

(i) whether the room occupied by Ms. K. Karpagam in the course of her tenure as Headmistress over the last 17 years and whether the present room are one and the same;

(ii) the video footage recorded on the CCTV cameras to ascertain the veracity of the rival versions put forth by the parties from 14.09.2023 onwards and produce the same before the Court;

(iii) production of School albums and annual



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reports over the years; and

(iv) casual enquiries made with the Teaching Faculty and staff in order to ascertain the veracity of the rival contentions advanced by the parties thus far. The enquiries will also cover the allegations made in affidavit dated 17.09.2023, specifically.

3.List on 27.09.2023.”

5.On the last hearing, ie., on 27.09.2023, two learned Counsels who had visited the School, one from each side, reiterated their earlier submissions conversing the categoric impression that neither of the parties to the proceedings had, thus far, acted in a spirit of amicable settlement. In fact, the animosity in the air was undeniable.

6.We consciously refrain from referring to the details of the differences between the parties, since at the hearing today, both parties have filed affidavits dated 29.09.2023 undertaking their cooperation in all matters relating to the functioning of Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram (Taluk), Thoothukudi District. The affidavits are taken on record and are made part and parcel of this order.

7.Both parties confirm that, going forward, they will conduct the affairs of the School in an amicable manner and in line with the assurance recorded in this order bearing in mind the legacy of their



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forefathers that must continue without blemish.

8. In brief, in the affidavit filed by the appellant, the Secretary of the School/Contemnor, undertakes to:

(i) give a quietus to all the issues between himself and his sister/respondent.

(ii) allot Class Room XII-G to the respondent as a room for Headmistress.

(iii) provide all necessary infrastructure befitting the post of Headmistress to the respondent within a period of four weeks from date of receipt of a copy of this order:

(iv) provide EMIS number and password to the respondent.

(v) allocate administrative and teaching duties to the respondent as Headmistress and hand over necessary official documents including accounts, where necessary and relevant to the post of Headmistress.

(vi) grant full liberty to the Headmistress to embark on her duties including taking class for students as PG Assistant (Tamil).

In the affidavit filed by the respondent, she undertakes as follows:

(i) She will discharge her duty as Headmistress without blemish.



(ii) She undertakes to appear for and co-operate in the domestic enquiry as directed by this Court in W.P.(MD)Nos.14823 and 14825 of 2020 dated 27.04.2022.

9. While disposing W.P.(MD)Nos.14823 and 14825 of 2020, on 27.04.2022 (which order gives rise to the order passed in the Contempt Petition impugned in this LPA), the Writ Court had recorded the consensus of the parties to a series of directions, as below:

“(i) The impugned orders of suspension, dated 07.10.2020, passed by the respondents 4 and 6 are quashed. The petitioners are directed to be reinstated into service forthwith.

(ii) The District Adi Dravidar Welfare Officer, Thoothukudi District, is directed to appoint an Enquiry Officer not below the rank of a retired District Educational Officer for the purpose of conducting domestic enquiry, within a period of two weeks from the date of receipt of a copy of this order.

(iii) The District Adi Dravidar Welfare Officer, Thoothukudi District, shall fix remuneration to be paid to the Enquiry Officer by the Management of the respondent School.

(iv) The Enquiry Officer, as appointed by the District Adi Dravidar Welfare Officer, shall commence the enquiry proceedings immediately by issuing notice to all the parties to the writ petitions by fixing a date and time and proceed with the enquiry by following the procedures as contemplated.

(v) Opportunity of hearing must be provided to all the parties and the enquiry report is directed to be submitted within a period of three months from the date of commencement of the proceedings.

(vi) It is needless to state that the petitioners are at liberty to raise all the factual and legal grounds,



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including the ground of jurisdiction, before the Enquiry Officer and before the Disciplinary Authority.

(vii) The petitioners are directed to cooperate for early disposal of the disciplinary proceedings and in the event of non-cooperation on the part of the petitioners or any other party, the Enquiry Officer shall record the same in the minutes itself and in such circumstances, such parties are not entitled to claim any relief on the ground of delay in disposal of the disciplinary proceedings.

viii) On submission of enquiry report, the Competent Authority / Trust / Disciplinary Authority shall proceed based on the enquiry report and pass final orders on merits and in accordance with law, without causing any undue delay.”

10.The impugned orders of suspension were quashed. The petitioner was reinstated on 24.01.2023 only on paper, as she was permitted to enter the school premises and resume duty only pursuant to orders of this Court dated 13.09.2023. We make it clear that she will be entitled to full service benefits from 07.10.2020 without break and seamlessly, since the order of suspension had been stayed under orders of the Court and thereafter, ultimately quashed.

11.The School has forwarded a requisition for service benefits as early as on 23.01.2023, which, according to them, is yet pending. A reminder will be sent forthwith accompanied by a copy of original requisition and all efforts will be taken to ensure that the salary is paid over at the earliest, since the respondent points out that she has been



without salary from 2020 onwards.

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12.The enquiry, as directed by the Writ Court, is stated to be on-going and the respondent undertakes to extent her full cooperation with the same. Let matters proceed in that regard and be completed expeditiously and in any event, within a period of three months from date of receipt of a copy of this order, in accordance with law, all applicable Rules and Regulations and in strict compliance with the principles of natural justice. The respondent is permitted to take legal assistance for the domestic enquiry.

13.The arrangement, as per this order, reflects the intention of the parties. A joint report by learned Counsel on record, one from each side, will be filed on or before 01.12.2023. In light of this order passed in a spirit of settlement, the appellant does not pursue this LPA and makes an endorsement to this effect.

14.The directions at paragraph 15 of impugned order are resultantly modified as follows:

(i)there shall be no transfer of the Headmistress/respondent in LPA as directed;

(ii)the direction to invoke Section 18-A of the Act is suspended for the moment;



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(iii)the direction to appoint a retired official to run the school in the interregnum is suspended for the moment;

(iv)there is no contest to clause (iv); and

(v)Orders have been issued as far as Clause(v) is concerned and no further orders are necessary.

15. In light of the endorsement not pressing the LPA, the legal issues that arise out of the impugned order are not pursued in this matter. LPA stands closed in terms of this order. No costs. Consequently, connected miscellaneous petition is closed.

16.List on 04.12.2023 to receive joint report as per direction paragraph 13 above.

[A.S.M.J.,] & [R.V.J.,]
29.09.2023

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Index :Yes/No
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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