



W.P.(MD).Nos.16988 of 2017 and its Batch.

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 29.03.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)Nos. 16988 of 2017, 1706, 5123 of 2018,**

**24269 of 2019 & 18213 of 2020**

**and**

**W.M.P(MD)Nos. 13539, 13540 of 2017, 1810, 1811, 5103,**

**5104, 5105 of 2018, 20877 of 2019, 15202, 15208 of 2020**

**W.P.(MD)No. 16988 of 2017**

R. Kanagaraj

... Petitioner

Vs.

1. The Chief Educational Officer,  
Tirunelveli District.
2. The District Educational Officer,  
Tirunelveli District.
3. The Secretary,  
Hindu Nadar Uravinmurai Committee,  
Higher Secondary School,  
Ariyanayakipuram,  
Tirunelveli District.
4. G.M.Ganesan

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the order passed by the 4<sup>th</sup> respondent in his proceedings in Nil dated 07.08.2017 and the consequential order passed by the 3<sup>rd</sup> respondent in his proceedings in Nil dated 26.08.2017 and quash the same.



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For Petitioner : Mr.V.Panneer Selvam  
For R-1 & R-2 : Mr.V.Om Prakash  
Government Advocate  
For R-3 : Mr.M.Sricharan Rangarajan,  
Senior Advocate, for  
Mr.G.Mohankumar

### **COMMON ORDER**

The issues involved in these Writ Petitions are one and the same and hence all the writ petitions are taken up together and this common order is passed.

**2.(i) The W.P(MD)No.16988 of 2017** has been filed for writ of Certiorari to quash the impugned enquiry report dated 07.08.2017 and consequential 2<sup>nd</sup> show cause notice dated 26.08.2017 issued by 3<sup>rd</sup> respondent school committee.

**2.(ii) The W.P(MD)No.1706 of 2018** has been filed for writ of Certiorarified Mandamus to quash the impugned order dated 07.04.2016 and direct the respondents to pay full salary with effect from 27.12.2016

**2.(iii) The W.P(MD)No.5123 of 2018** has been filed for writ of Certiorarified Mandamus to quash the impugned order dated 17.05.2017 and to confer all the consequential benefits to the petitioner.



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**2(iv) The *W.P(MD)No.24269 of 2019*** has been filed for writ of

Certiorarified Mandamus to quash the impugned dismissal order, dated 25.03.2019, passed by the 1<sup>st</sup> respondent, with a consequential direction to the respondents 1 to 4 to reinstate the petitioner in the 3<sup>rd</sup> respondent school, with all back wages, salary emoluments and attendant benefits from the date of suspension dated 27.09.2015.

**2.(v) The *W.P(MD)No.18213 of 2020*** has been filed for writ

of Certiorarified Mandamus to quash the impugned order dated 24.11.2020 granting approval of termination of service contrary to the statute and consequently direct the respondent to reinstate the petitioner as Physical Education Teacher with all backwages salary emoluments and attendant benefits from the date of suspension dated 27.09.2015 less the salary already paid.

**3.** The brief facts of the case are that the petitioner's wife's grandfather, namely Mr.Chellaiah Nadar out of his own funds founded the 1<sup>st</sup> respondent school in the year 1934 as an Elementary School and administrated through Hindu Nadar Uravin Murai of the said village. Thereafter, the school was upgraded as Higher Elementary School in the year 1964, High school in the year 1984 and Higher Secondary School in



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Teacher on 26.11.1984. There was a management dispute in the year

1993. Due to enmity between two rival groups regarding the administration of the village temple and the school, some criminal cases were foisted against the petitioner in Crime No.194 of 2009, Crime No. 177 of 2013, Crime No.14 of 2014, Crime No.254 of 2014, Crime No.246 of 2015, Crime No.286 of 2015 and Crime No.316 of 2015 on the file of Inspector of Police, Seranthamaram, Tirunelveli District. The school was under direct payment and hence, the District Educational Officer in his proceedings, dated 06.10.2015 suspended the petitioner from service on the ground that the petitioner was involved in land dispute and was in prison more than 48 hours in Crime No.316 of 2015 on the basis of the complaint instituted by one N.Arunagirisamy belonging to one rival group. The petitioner has preferred a writ petition against the suspension order in ***W.P(MD)No.18708 of 2015*** and the same is pending before this Court. On 07.12.2015 one S.Muthiah, as a Secretary of the school, vide proceedings in Na.Ka.No.2 of 2015 suspended the petitioner from service. The said N.Arunagirisamy was an executive member of the School committee and he was behind the suspension order. The said S.Muthiah, the secretary of the School, who belonged to the rival group was the complainant in Crime Nos.286 of 2015 and 246 of 2015 and hence the suspension order was purely malafide. After suspension the



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has filed W.P.(MD)No.22181 of 2016 and this Court, vide order, dated 29.11.2016 directed the Education Department to pay Subsistence allowance for a period of 4 months.

4. Further, the said suspension order was illegal and void the same was challenged by the petitioner in **W.P.(MD)No.1706 of 2018** and it is one of the writ petitions in this common order. The said N.Arunagirisamy, as executive committee member of the school committee and Muthiah as secretary, again issued proceedings in Na.Ka.No.4 of 2016, dated 02.02.2016 passed an order of suspension citing their own criminal cases instituted against the petitioner and in another order, dated 07.04.2016 further extended the suspension order. The said suspension order was issued without obtaining prior permission, extending the first suspension order, dated 07.12.2015. And the said order of extension of suspension passed by the management with malafide intension and hence the petitioner has filed writ petition in **W.P.(MD)No. 5123 of 2018** and it is one of the writ petitions in this common order.

5. The 1<sup>st</sup> respondent has issued a charge memo, dated 31.12.2015, alleging eight charges relating to the criminal cases. Then the suspension was extended vide order 02.02.2016 but the copy of the order



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continue in service. The petitioner came to know that the 3<sup>rd</sup> respondent passed an order dated 07.04.2016 extending the suspension through the proceedings dated 24.04.2017, but the same was not communicated to the petitioner. In the meanwhile, the school had issued another charge memo dated 18.05.2017 in four counts mainly on violation of code of conduct. The 1<sup>st</sup> respondent had appointed an Advocate as Enquiry officer and the enquiry officer has issued notice, dated 22.06.2017 directing the petitioner to appear for enquiry on 25.06.2017. The petitioner has submitted a representation, dated 24.06.2017 and requested a copy of the suspension order, dated 07.04.2016 and other related documents to submit his explanation and also sought for adjournment for 30 days. In the said letter the petitioner also requested to pay subsistence allowance. However, without providing any of the required documents and without providing the copy of the extension of suspension order, dated 07.04.2016 and subsistence allowance the enquiry was conducted on 27.06.2017. The enquiry officer sent another notice to appear for enquiry to be held on 30.06.2017 referring to charge memo dated 18.05.2017, that also within three days from the date of issuance of notice. The petitioner received the notice dated 27.06.2017 only on 01.07.2017. On the same day i.e. on 01.07.2017 the petitioner had replied and also referred to his earlier reply dated 24.06.2017. Again the enquiry officer sent another notice dated



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07.07.2017 which the petitioner received on 12.07.2017. On the same day i.e. on 12.07.2017 the petitioner replied referring to the earlier reply. But again the enquiry officer sent another notice dated 17.07.2017 to appear on 29.07.2017 as final chance. The petitioner requested to adjournment and also requested to serve copy of the documents especially the extension of suspension order. The enquiry officer had replied on 02.08.2017 that the suspension order is already served on the petitioner. In the said reply the enquiry has not mentioned about any enquiry conducted on 29.07.2017, but on a later day the respondents served a copy of the order dated 29.07.2019 which is an ex-parte order on 29.07.2017. Even without serving the documents, the enquiry officer conducted the enquiry and has submitted the enquiry report to the management on 07.08.2017.

6. The contention of the petitioner is that the enquiry report related to charge memo dated 18.05.2017 but the said charge memo was not served to the petitioner and the enquiry report is not for the charge memo, dated 31.12.2015. The management without paying the subsistence allowance and full salary for the extended suspension period beyond four months, the 2<sup>nd</sup> show cause notice, dated 26.08.2017 proposing the punishment of termination was issued. Hence the petitioner



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report dated 07.08.2017 and the proposed punishment, dated 26.08.2017.

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This Court has passed *Status quo*, vide order, dated 08.09.2017 and the interim order is still in force. In the meanwhile, the criminal case filed against the petitioner was either closed or dismissed. The Criminal Court had closed the case as mistake of fact, except one crime number, where no charge sheet was not filed as on date. The Magistrate had also taken note of the fact that the complaint made by N.Arunagirisamy was baseless at the petitioner was the owner of the subject land and also protected by an order of permanent injunction in I.A.No.1314 of 2015 in O.S.No.340 of 2015 on the file of District Munsif Court, Sankaran Kovil. The suspension order, dated 27.09.2015 was passed on the basis of that the petitioner was remanded for more than 48 hours in Crime No.316 of 2015, but the said crime number was referred and the case is closed as mistake of fact. Therefore, it is evident that the said Muthiah and N.Arunagirisamy have initiated disciplinary proceedings, which are tainted with personal bias, prejudice, based on false and perverse facts and due to personal animosity relating to property dispute between them and the petitioner.

7. Based on the above charges, the respondents could not terminate the petitioner from service, hence the 1<sup>st</sup> respondent has issued a fresh charge memo, dated 03.01.2019 alleging that the petitioner had



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started a Private College and had suppressed the same to the management and also suppressed before educational authorities. Hence, the charge memo was issued by the 1<sup>st</sup> respondent in consultation with K.Palanichamy, an Executive Member of the School committee based on his complaint, dated 25.02.2018. The contention of the petitioner is on the said basis, they have illegally constituted a school committee, began the proceedings, dated 03.01.2019 without following any procedure prescribed under Rule 14 of the Tamil Nadu Recognized Private School Regulation Act 1973 (hereinafter referred as “the Act”). The further contention of the petitioner is that neither the complaint nor the proceedings of the school committee were given to the petitioner. In spite of the same, the petitioner sent a reply, dated 10.01.2019 stating that he had not started the R.K. College of Physical Education as alleged and the petitioner had not violated any of the provisions of the Act. However, the 1<sup>st</sup> respondent bent upon terminating the service of the petitioner had appointed the enquiry officer, who is an Advocate namely G.M. Ganesan, who was appointed in the earlier departmental proceedings. The enquiry officer had issued letter dated, 08.02.2019 directing the petitioner to submit objections to the charges. The petitioner has raised an objection to the appointment of the said Advocate as Enquiry Officer, vide letter dated 15.02.2019 and requested time, then filed W.P.(MD)No.4334 of 2019.



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authorities to consider and pass orders. Inspite of the same, the 1<sup>st</sup> respondent Secretary, namely, Arunagiriswamy sent a communication, dated 19.03.2019 proposing punishment termination of service based upon enquiry report, dated 13.03.2019 which was an exparte order passed based on the evidence of one Samuthirakani son of Muthiah, the Ex-Secretary / 6<sup>th</sup> respondent herein and the said Palanichamy. By marking the documents but without giving the copy of the same to the petitioner along with charge memo dated 03.01.2019 or along with the proposed punishment dated 19.03.2019.

8. The contention of the petitioner is that if the copy of the said document was served, he would have submitted an explanation that being the President of the District Inter Athletic Association and being a trustee of the R.K. Educational and Charitable Trust, the petitioner has preferred a writ petition seeking permission to start a college, which intended to provide weekend vocational course. The said writ petition was disposed of directing the official respondents to consider the same. The further contention of the petitioner is that the petitioner would have explained that the said consideration also failed and there was no opportunity or other circumstance for the petitioner to start a college. Further, the enquiry report, dated 13.03.2019, revealed that the charge of opening of the R.K.College of Physical Education has been proved as



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correct and no explanation has been offered by the petitioner. Hence, the petitioner has submitted that no documents referred to in the enquiry report were given to the petitioner along with the charge memo. Moreover, to the letter of proposed punishment, dated 19.03.2019 the petitioner was directed to submit a reply within 72 hours. Hence the petitioner had challenged the same in **W.P.(MD)No.4334 of 2019** and the writ petition was disposed of vide order 26.02.2019. But the respondents before receiving the copy of the order, the respondents without providing opportunity with malafide intention created the document as if school committee meeting was held on 25.03.2019 and decided to terminate the petitioner's service on the same day. The 1<sup>st</sup> respondent by its order, dated 25.03.2019 terminated the petitioner's service with effect from the same date i.e. 25.03.2019.

9. The contention of the petitioner is that the Hon'ble Court could not be apprised of the facts relating to the criminal cases referred in W.P.(MD)No. 18708 of 2015, the 1<sup>st</sup> order of suspension passed by the DEO and being misled by incorrect facts submitted by the respondent's counsel, the writ petition came to be dismissed by an order, dated 26.06.2019. The petitioner submits that the crime No.194 of 2009 was closed in the year 2013, Crime No.177 of 2013 was dismissed in petitioner's favour and the petitioner was acquitted, vide order, dated



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11.01.2019 in Crime No.14 of 2014 relating to 107 Cr.P.C proceedings

was closed by the RDO in 2015, Crime No.254 was dismissed by Judicial Magistrate in favour of the petitioner on 06.03.2019, Crime No.246 of 2015 was closed as mistake of facts on 15.01.2017 and Crime No.286 of 2015 is pending investigation and charge sheet not filed. Almost all crime numbers were dismissed. The petitioner was suspended under deemed suspension based on Crime No.316 and the same was referred as mistake of fact and there is interim injunction regarding the said property in Munsif Court. The respondents placing false facts and suppressing the aforesaid facts had played fraud on the court. This was not brought to the notice of this Court, when the writ petition in W.P.(MD)No.18708 of 2015 was heard. The above facts would clearly show that the respondents with malafide intention have passed the impugned order, dated 25.03.2019 terminating the petitioner from his service. The same is contrary to law and opposed to the principles of natural justice and without following the direction dated 26.02.2019 of this Court in W.P(MD)No.4334 of 2019, which copy of order was dispatched on 27.03.2019. The respondents cannot plead ignorance of the said order since the same was passed in the presence of their counsels. Moreover, notice was also issued to them. The impugned order, dated 25.03.2019 is malafide, arbitrary, illegal as same is directly opposed to Section 22(1)



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the impugned order, dated 25.03.2019 was passed in contradiction without vacating and getting clarified the order of *Status quo* passed in W.P.(MD)No.16988 of 2017 or getting clarification in W.P.(MD)No. 4334 of 2019. Hence, the petitioner has filed contempt petitions against the respondent for not paying salary while the petitioner was under suspension. And the petitioner had obtained order for payment of salary. Irked by the order and in order to evade payment of full salary and to circumvent the rigor of the void and illegal suspension orders, dated 27.09.2015 and 16.10.2015, the respondents had passed termination order, dated 25.03.2019. Hence the petitioner had filed W.P.(MD)No. 24269 of 2019 to quash the same and to reinstatement with all benefits.

**10.** The respondents have filed counter stating that the entire case of the petitioner seems to be in respect of charge memos 1 & 2 that he was relieved from all criminal charges that has been framed against him, that a suspension order, at the very best could be extended only once for a period of two months and not thereafter. That in the light of the said fact that the 3<sup>rd</sup> charge memo was issued on 03.01.2019 has ultimately culminated into an order of termination, the writ petitions in relation to Charge memos 1 & 2 lose significance. In respect of the 3<sup>rd</sup> charge memo, the contention of the petitioner is that there is a violation of principles of natural justice that prior approval as required under section



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22(1) of the Act, 1973 has not been obtained. The allegation that the petitioner started a college is not true as he did not ultimately start the college for physical education. The respondents submitted that these facts are denied as false.

**II.** The petitioner followed dilatory tactics which have been adopted throughout all three charge memos, a sample would be the series of events that transpired post the issuance of the third charge memo by the school committee. This would be evident from the tabulation given in the counter and the said tabulation is extracted here under:

|                                                                                                                                                                  |            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Issuance of the third charge memo by the School Committee.                                                                                                       | 03.01.2019 |
| Enquiry notice sent by the enquiry officer to the Petitioner                                                                                                     | 08.02.2019 |
| Reply sent by the Petitioner.<br>The said reply merely sought time for a period of one week as connected writ petitions are likely to be heard in the meanwhile. | 15.02.2019 |
| Another enquiry notice sent to the Petitioner                                                                                                                    | 18.02.2019 |
| Third enquiry notice to the Petitioner                                                                                                                           | 25.02.2019 |
| Fourth enquiry notice to the Petitioner, fixing the date of the hearing/appearance on 09.03.2019.                                                                | 04.03.2019 |
| Final enquiry report submitted by the enquiry officer                                                                                                            | 13.03.2019 |
| Letter from the Petitioner seeking further time on the ground that the Order copy in W.P(MD)No.4334 of 2019 pronounced on 26.02.2019 has not been received.      | 23.03.2019 |
| Resolution passed by the School Committee                                                                                                                        | 25.03.2019 |
| Letter to the Petitioner communicating the decision of the School Committee                                                                                      | 25.03.2019 |
| Approval order by the 3 <sup>rd</sup> respondent/authority                                                                                                       | 24.11.2020 |

The tabulation would demonstrate the dilatory tactics of the



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two charge memos as well. The petitioner strongly relies on the order of

this Court, dated 26.02.2019 passed in W.P.(MD)No.4334 of 2019.

However, a close reading of the entire order would reveal that since Counsel for all the parties were present and considering the fact that the petitioner had already given an explanation to the charge memo, an order is pronounced to complete the proceedings after providing an opportunity of hearing within a period of eight weeks. Thereafter, when the writ petition was disposed of at the admission stage itself in the presence of all the concerned parties and the parties are very well aware of the contents of the order, which itself was based on the petitioner's submissions. It is now an afterthought to read between the lines and then say that the proceedings itself could commence only after receipt of the order copy. In order to uphold the spirit of the Judgment the respondents issued the 4<sup>th</sup> enquiry notice on 04.03.2019 communicating the hearing would be held on 09.03.2019. However, the petitioner chosen to respond only on 23.03.2019 that too he wanted further time on the ground that the order copy was not received. It demonstrates the attitude of the petitioner. It is not true, as if the order had several directions or one was complicated in nature that the petitioner would understand the same only after the receipt of the copy of the order. Therefore, the ground that the principles of natural justice has been not adhered to falls flat given the conduct of the petitioner in approaching these proceedings and delaying the same.



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**12.** As far as the contention of the prior approval, when the authority has ultimately confirmed the school committee's decision, the contention of the petitioner cannot be entertained. The judgment rendered in *Padma Sundara Rao Vs. State of Tamil Nadu and others* reported in (2002) 3 SCC 533 is relied on by the petitioner, in the said case there was no approval obtained from the Educational Authorities by the school and the same renders the order of termination an illegality. This is contrary to the set of facts in question where an approval was nonetheless granted by the concerned authorities confirming the decision of the school committee. Hence, the decision relied by the petitioner is not applicable to the present case.

**13.** The Doctrine of *empty formality* as has been held by the Hon'ble Supreme Court in the case of *Aligarh Muslim University & Others Vs. Mansoor Ali Khan* will squarely applicable to the facts of the case as no useful purpose will be served if the matter is now remitted back for want of prior approval. Where the decision of the authority in no uncertain terms takes note of the fact that prior approval has not been obtained and nonetheless confirms the decision of the school committee, the decision of the authority cannot be now changed, if the matter was remitted back.



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**14.** As far as the allegation of starting the college is concerned, the plea of the petitioner that he has not started the college is concerned, the petitioner has filed not one, but filed two writ petitions in 2013 and 2017 seeking for approval to start the college. While the first writ petition in the year 2013 was withdrawn, the second writ petition in the year 2017 was taken to its logical conclusion. In the said order of this Court, dated 25.05.2017 in W.P(MD)No.9722 of 2017 has recorded the submissions of the petitioner that he has all infrastructure facilities to start the college. After taking note of the infrastructures, this Court granted positive direction to the concerned authorities to facilitate the petitioner in starting the college. The petitioner has not bothered to get the permission of the school in which he is serving prior to institution of these writ petitions. Yet another argument of the petitioner is that he did not plan to start the college by himself, but it was only a trust which was going to do so. This again demonstrates the conduct of the petitioner. The W.P(MD)No.9722 of 2017 was filed by the petitioner in his individual capacity. And the order passed in W.P(MD)No.9722 of 2017 is on 25.04.2017, however, the Trust Deed is dated 09.06.2017 which is subsequent to the order is the said writ petition. The Trust Deed shows that the college and the trust were to be named after the petitioner. The Trust Deed further provided that he would act as the Correspondent of the said college. The photographs filed in the additional type set of papers



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filed by the respondents will show the extent to which the petitioner was ready as the name boards of the college were also installed. Thus, it is apparent that the petitioner has taken all steps for the commencement. Hence, the respondents pray to dismiss the writ petition.

**15.** Heard Mr.V.Panneer Selvam, the Learned Counsel appearing for the petitioner, Mr.V.Om Prakash, the Learned Government Advocate appearing for the 1<sup>st</sup> and 2<sup>nd</sup> respondents in W.P.(MD)No. 16988 of 2017 and Mr.M.Sricharan Rangarajan, the Learned Senior Advocate, for Mr.G.Mohankumar appearing for the 3<sup>rd</sup> respondent school management and Perused the material documents available on record.

**16.** The first contention of the petitioner is that the charge memo 1 & 2 are issued based on the criminal cases initiated against the petitioner. It is admitted by both the parties that the criminal cases were subsequently either dismissed or closed as mistake of fact or after trial the petitioner was acquitted. Therefore, as far as the Charge Memos 1 and 2 are concerned there is no case was made out by the petitioner as well as the respondents. Therefore, this Court is of the considered opinion that the as far as the Charge Memo 1 and 2 are concerned the termination of the petitioner is not correct.



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**17.** As far as the Charge memo-3 is concerned the allegation against the petitioner is that he has started a new college for Physical Education without intimating or prior approval from the school where he was serving as Physical Education Teacher or from the Education Department. The contention of the petitioner is that there is a clear violation of principles of natural justice, for which, the Learned Counsel appearing for the petitioner submitted that the 3<sup>rd</sup> charge memo was challenged in W.P(MD)No.4334 of 2019 and the order was pronounced on 26.02.2019 and the copy of the order was not received, it was dispatched only on 27.03.2019. But the school had issued enquiry notice dated 04.03.2019 for which the petitioner sought time. Without granting further time the respondents concluded the proceedings on 13.03.2019. Without the copy of the order passed in W.P(MD)No.4334 of 2019, the respondents had concluded the proceedings and the school has passed a resolution by terminating service of the petitioner, on 25.03.2019. Hence it is violative of principles of natural justice. The contention of the petitioner was refuted by the respondents by stating that the order, dated 26.02.2019 was pronounced in the presence of all the parties and the respective Counsels. The petitioner has submitted before this Court that he has submitted explanation to the said charge memo. Recording the said statement, this Court has directed the school authorities to complete the proceedings, without any further delay. Therefore, the contention of the



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respondents is that they need not wait for the receipt of the copy of the order. However, the petitioner has not cooperated with the enquiry proceedings by stating that the order copy of the Court was not received, therefore, further proceedings cannot be continued.

**18.** As rightly pointed out by the Learned Counsel appearing for the respondents in any enquiry proceedings the delinquent has to submit explanation, then the proceedings ought to be continued. Exactly, the same was recorded by this Court and directed the respondents to proceed further with the proceedings. Infact the petitioner has submitted and agreed before the Court that he has submitted an explanation and also accepted to face the disciplinary proceedings. Therefore, the petitioner cannot seek further time for the reason that the order copy was not received. The petitioner cannot be permitted to state that he would participate in the enquiry proceedings only after receiving the order copy and hence the said plea cannot be entertained. Therefore, 1<sup>st</sup> contention that was raised by the petitioner is held against the petitioner.

**19.** As far as the prior approval is concerned, the petitioner has relied on Section 22(1) and 22(2) Form VII and Rule 14(2) and 14(3) of the Act, 1973 and also relied on the Judgment dated 21.12.2011



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Chettiar Middle School Vs. Rexline Mary and also the cases referred in the said judgments. The learned counsel appearing for the respondents refuted the contention of the petitioner by stating that the said judgments cannot be relied on, since in those cases there was no approval by the authorities. In the present case, even though initially approval was not granted, pending writ petitions, the Educational Authorities has granted approval. In such circumstances, the said Judgment are not applicable to the present cases.

20. The next contention of the petitioner is that once approval was not granted, then it ought to be remitted back to the authorities for further consideration. However, this contention of the petitioner was refuted by the respondents by stating that if it is remitted back to the authorities, the authorities in all probability would again grant the approval. In such circumstances it would be an unnecessary exercise and it would be an empty formality. Therefore, even if the matter is remitted back once the result would be same as that of now then it will be a clear *empty formality*.

21. In order to decide the plea of Section 22(1) and 22(2) Form VII and Rule 14(2) and 14(3) of the Act, 1973 and empty formality, the 3<sup>rd</sup> charge against the petitioner ought to be considered. The 3<sup>rd</sup> charge



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against the petitioner is that the petitioner had started new college without intimating to the respondent school and without obtained prior approval and it amounts to indirectly engage in business. The learned counsel appearing for the respondents relied on the affidavit filed by the petitioner in W.P.(MD)No. 9722 of 2017, where the petitioner has stated that the petitioner was seeking approval to start college and the contents are as if the petitioner had intention to start college once approval is granted. And he has not made any arrangements to start the college. But the fact remains that the building and other infrastructures are ready along with the Name Board. Infact any college would be approved if the college is having complete infrastructure, otherwise the approval will not be granted. It is a settled proposition that if any college is having infrastructure, then alone the authorities would consider for granting approval. In the order passed by this Court in W.P(MD)No.9722 of 2017, this Court has granted positive direction to the respondents to grant approval. But the contention of the petitioner before this Court is that this Court has not granted any approval. Therefore, the plea of the petitioner that the college was not started, the court has not directed to grant approval are all incorrect.

**22.** This Court has also perused the documents as well as the



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perusing the records, it is revealed that the college was ready to start with all infrastructures with building. Moreover, the petitioner has filed the writ petition in his individual capacity and not as a Trustee. As rightly pointed by the Learned Senior Counsel appearing for the respondents, infact the Trust was formed and the Trust Deed was executed belatedly. The order in W.P(MD)No.9722 of 2017 was passed on 25.04.2017, but the trust deed was executed on 09.06.2017. Therefore, this Court is of the considered opinion that the petitioner has committed perjury before this Court. But this Court is not inclined to take any action against the petitioner and at the same time this Court is not inclined to grant any relief to the petitioner.

23. The next contention that was raised by the petitioner is that starting a college is not a misconduct. However, the said contention of the petitioner was refuted by the respondents by stating that under Clause 3 in Annexure II of the said Tamil Nadu Recognized Private School Regulation Rules clearly indicates that the teacher shall not engage in any trade or business directly or indirectly. Even, if the case of the petitioner is accepted that he is going to run the college under the Trust it would amount to **indirectly** doing a business. The Trust Deed is not stating that the college would run on charity and it is not for profit motive. As rightly pointed out any college is not running based on charity.



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Therefore, the claim of the petitioner is that he is going to run the college under charitable purpose is also is incorrect. Therefore, this Court is of the considered opinion that the conduct of the petitioner amounts to misconduct as stated in the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the Rules made thereunder.

**24.** Therefore the plea raised by the petitioner cannot be entertained. For all reasons stated supra, this Court is inclined to dismiss the writ petitions. Accordingly, all the writ petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No  
Internet : Yes  
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To

1. The Chief Educational Officer,  
Tirunelveli District.
2. The District Educational Officer,  
Tirunelveli District.
3. The Secretary,  
Hindu Nadar Uravinmurai Committee,  
Higher Secondary School,  
Ariyanayakipuram,  
Tirunelveli District.



WEB COPY



**W.P.(MD).Nos.16988 of 2017 and its Batch.**

**S.SRIMATHY, J**

**ksa**

**Common Order made in  
W.P.(MD)Nos. 16988 of 2017,  
1706, 5123 of 2018,  
24269 of 2019 & 18213 of 2020**

**29.03.2023**