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W.P. No.13332 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.13332 of 2012

and

M.P. No.1 of 2012

Tmt.V.Jayanthi
Secondary Grade Teacher
Balakrishnavilas Aided Primary School
No.1, Dharmalingam Street,
Line Medu, Salem-636 001.

... Petitioner

- Vs -

1.The District Elementary Educational Officer,
District Library Building,
Salem-636 007.

2.Balakrishnavilas Aided Primary School,
Rep. By its Secretary A.Thulasi,
No.1, Dharmalingam Street,
Line Medu, Salem-636 001.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for the records relating to the charge memo issued by the 2nd Respondent in his proceedings dated 04.12.2010 and quash the same.

For Petitioner : Mr.S.N.Ravichandran



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For Respondents : Mr.A.M.Ayyathurai
Government Advocate for R1
No Appearance – for R2

ORDER

The instant writ petition is filed challenging the order of the 2nd Respondent dated 04.12.2010. The petitioner is a teacher in Balakrishna Aided School. It appears that she was previously dismissed from service for not obeying the orders of her superiors. However that dismissal order was later on set aside by virtue of order of this Court in W.P.No.30058 of 2008 dated 04.03.2011.

2. The learned counsel for the petitioner would contend that, to circumvent the above direction, the management issued another charge memo dated 04.12.2010, by and in which the petitioner was charged for furnishing false community certificate. The learned counsel for the petitioner would further contend that, on the very same charge a criminal complaint was also given against her which was subsequently quashed. Therefore, it is the contention of the learned counsel for the petitioner that the charge memo was issued in a vindictive manner without any supporting material and records. However, there was direction in W.P.No.30058 of 2008 to the



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Respondents to reinstate the petitioner in service.

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3. But the learned counsel for the Respondents strongly objected such contention and would submit that on the date of issuance of charge memo there were *prima facie* materials against the petitioner, therefore the issuance of charge memo is valid in law. Besides, it is the contention of the learned counsel for the Respondents that at the threshold, issuance of charge memo cannot be interfered by invoking the writ jurisdiction.

4. I have given my anxious consideration to the submissions made on either side.

5. As rightly contended by the learned counsel for the Respondents at the stage of issuance of charge memorandum, the writ jurisdiction cannot be entertained, unless there is a strong reason.

6. The learned counsel for the petitioner would contend that the charge memo was issued only to circumvent the direction issued by this Court in W.P.No.30058 of 2008 dated 04.03.2011. In the above writ petition, the



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management was directed to pay all the backwages. He has also drawn the attention of this Court against the order of the Revenue Divisional Officer in cancelling the petitioner's community certificate against which the petitioner has preferred a writ petition in W.P.No.29228 of 2012. Wherein this Court vide order dated 01.07.2013 remanded the matter back to the Vigilance Committee to hold fresh enquiry to find out the genuineness of the community certificate.

7. It appears that the District Vigilance Committee vide order dated 22.06.2022 has confirmed the genuinity of the petitioner's community. Not satisfying, the order of the District Vigilance Committee, the management has preferred a writ petition in W.P.No.16247 of 2022. But this Court vide order dated 02.12.2022 has confirmed the order of the Vigilance Committee. But the management challenged the writ petition order before the Hon'ble Supreme Court which was subsequently dismissed in S.L.P.No.23766 of 2022 by confirming the order of the High Court. Therefore, from the above discussion, what emerges is that the genuinity of the community of the petitioner was upheld upto the level of the Hon'ble Supreme Court.



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8. Admittedly, the impugned charge memo dated 04.12.2010 is only in respect of the alleged false community certificate.

9. Therefore, taking into consideration of the subsequent development qua the confirmation of genuinity of community of the petitioner by the Supreme Court, this Court is of the firm view that the charge memo dated 04.12.2010 is *ex-facie* illegal and its continuance would cause manifest injustice and hardship to the petitioner. Therefore, this Court finds merit in the submission of the learned counsel for the petitioner to quash the charge memorandum.

10. In the result, the writ petition is allowed by quashing the charge memo dated 04.12.2010. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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C.KUMARAPPAN, J.

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To:

1.The District Elementary Educational Officer,
District Library Building,
Salem-636 007.

2.The Secretary,
Balakrishnavilas Aided Primary School,
No.1, Dharmalingam Street,
Line Medu, Salem-636 001.

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