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W.A.No.618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2024

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.618 of 2023

AND

C.M.P.Nos.27684 & 6049 of 2023

T.Mary Shalini

.. Appellant

Vs.

1.The Correspondent
St. Mary's Girls Higher Secondary School
Vellore District
Vellore 632 001

2.The Joint Director (Secondary Education)
Commissionerate of School Education
Chennai

3.Bala
Advocate/Enquiry Officer
No.243, 1st Floor, New Additional Law Chambers
High Court, Chennai 600 104

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 23.02.2023 passed in W.P.No.5373 of 2023.



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For Appellant : Mr.T.Sellapandian
for Mr.S.Mani
For R1 : Father Xavier Arulraj
Senior Counsel
For R2 : Mr.Abishek Murthy
Government Advocate

JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

According to the appellant, she had preferred a writ petition, in WP. No.5373 of 2023 to quash the communication dated 11.02.2023 issued by the first respondent, calling upon her to submit further explanation to the enquiry report dated 24.01.2023 of the third respondent / Enquiry Officer and consequently, direct the first respondent to conduct a *de novo* enquiry pursuant to the charge memo dated 08.06.2022 by appointing an enquiry officer afresh. By order dated 23.02.2023, the learned Judge dismissed the said writ petition, on the finding that the challenge to the said notice is pre-emptive attempt. Aggrieved by the same, the appellant is before this court with the present writ appeal, *inter alia* raising the ground that she was not given any opportunity to cross-examine the witnesses, PW1 and PW2 in the enquiry and hence, the enquiry report filed by the third respondent is arbitrary, illegal and in violation



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of the principles of natural justice.

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2. On 15.03.2023, when the appeal came up for admission, this court has granted an order of *status quo*, initially for a period of two weeks, which was subsequently, extended, till today.

3. When the matter was taken up today, the learned senior counsel for the first respondent filed a typed set of papers, containing the judgment dated 05.12.2023 passed in DVC No.26/2020 filed by the complainant P.S.Philomena Angeline against the appellant and others and two representations submitted by the complainant to the first respondent, and submitted that the first respondent Management is ready to co-operate with the enquiry officer, with regard to providing further opportunity to the appellant to cross -examine the witnesses. It is also submitted that there are sufficient evidence made available to proceed against the appellant and the charges framed against her are grave in nature; and in view of the order of *status quo* granted by this court, the entire proceedings are indefinitely kept in abeyance, which would damage the reputation of the institution and create administrative problems and demoralize the general public. Stating so, the learned senior counsel sought to vacate the interim order so passed by this court and allow the first respondent to proceed with the enquiry proceedings against the appellant.



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4. On the other hand, the learned counsel for the appellant submitted that without providing sufficient opportunity to the appellant, the enquiry officer filed his report, based on which, the first respondent is inclined to pass orders against her. Stating so, the learned counsel submitted that the appellant would be satisfied, if a direction is given to the first respondent to conduct the enquiry proceedings afresh, by appointing a new enquiry officer hailing from Vellore District, so as to complete the same, at the earliest, for which, the learned senior counsel appearing for the first respondent has no serious objection. Both the learned counsel appearing for the parties have made an endorsement in the writ appeal papers, to that effect.

5. Considering the facts and circumstances of the case, and having regard to the submissions and the endorsement so made by the learned counsel appearing on either side, this court directs the first respondent to conduct the enquiry initiated against the appellant afresh, by appointing a new enquiry officer hailing from Vellore District, and based on the enquiry report, pass appropriate orders, on merits and in accordance with law. It is needless to state that the Enquiry Officer shall conduct the enquiry proceedings, after providing reasonable opportunity to the appellant to cross examine the witnesses, and file



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his report to the first respondent, as expeditiously as possible.

6. With the aforesaid directions, this writ appeal stands disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D,J.] [M.S.Q, J.]

18.01.2024

Internet : Yes

Neutral Citation : Yes/No

gya

To

1.The Correspondent

St. Mary's Girls Higher Secondary School

Vellore District

Vellore 632 001

2.The Joint Director (Secondary Education)

Commissionerate of School Education

Chennai



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