



W.P.No.8490 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.07.2024

PRONOUNCED ON : 30.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.K. ILANTHIRAIYAN.

W.P.No.8490 of 2022

E.Usha .. Petitioner

Vs.

1. The Commissioner of School Education
DPI Campus, College Road
Chennai – 600 006.

2. The Director of School Education
DPI Campus, College Road
Chennai – 600 006.

3. The Chief Educational Officer
Chief Education Office
Presidency School Campus
Egmore, Chennai – 600 008.

4. The District Educational Officer
Chennai Central, Saidapet
Chennai – 15.

5. The Correspondent and Secretary
Kesari Higher Secondary School
Mylapore, Chennai – 600 004.

6. K.S.V.Prasad .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records in pursuant to the impugned order issued by the fifth respondents in proceedings no 'nil' dated 10.01.2022 and quash the same and to consequently direct the respondents to reinstate the petitioner in service with full monetary and consequential service benefits.

For Petitioner : Mr.G.Vairava Subramanian

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R4

Mr.S.Ravi
for R5

Mr.K.S.V.Prasad
Party-in-Person (R6)

ORDER

This writ petition has been filed challenging the order passed by the fifth respondent, thereby removing the petitioner from service.

2.1. The petitioner was appointed as a B.T. Assistant in Science in the fifth respondent School. The fifth respondent School is a Linguistic Minority Educational Institution and is receiving grant in aid from the Government as per the Tamil Nadu Minority Schools Recognition and Payment of Grant Rules, 1977.



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2.2. The petitioner's appointment was approved by the authorities from the date of her initial appointment, i.e., 28.06.2006. While being so, she also completed her Post Graduation and requested the then Head Mistress of the fifth respondent School to send necessary proposal to the third respondent for sanction of incentive increment. But, no proposal was sent for grant of incentive increment. The petitioner also alleges ill treatment by the School Management.

2.3. As per the cadre strength of the students, only two posts of B.T. Assistants in Science were sanctioned for the fifth respondent School, but, in addition to the sanctioned strength, one *Leelavathi Vadakattu*, who being the friend of the fifth respondent, was appointed as B.T. Assistant in Science. It is an unapproved post and her appointment is also not approved so far. Therefore, in order to accommodate the said *Leelavathi Vadakattu*, the petitioner was targeted and serious allegations were levelled against the petitioner. In pursuance to which, the petitioner was placed under suspension on 23.04.2018.



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2.4. The said suspension order was challenged by the petitioner before this Court in W.P.No.10846 of 2018 and an order on stay of the suspension order was obtained. Thereafter, on the assurance given by the fifth respondent that the petitioner would be reinstated into service, by recording the same, this Court disposed the said writ petition.

2.5. After reinstating the petitioner into service, the petitioner alleges that the Lab Assistant took a videograph of the petitioner, while the petitioner was conducting practical class for the IX standard students in the laboratory without the permission of the petitioner. Therefore, the petitioner lodged a complaint before the Educational Authorities, as well as the sixth respondent. Without enquiring the said complaint, the sixth respondent issued notice to the petitioner, alleging that there are complaints against the petitioner and called upon the petitioner to submit her explanations in respect of the allegations levelled against her.

2.6. Thereafter, an enquiry officer was appointed and the enquiry was conducted. However, the petitioner alleges non-serving of



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the documents, which were annexed to the charges and as such, the petitioner was constrained to file a writ petition before this Court in W.P.No.10190 of 2021. By the order dated 23.04.2021, this Court disposed of the said writ petition with directions to complete the disciplinary proceedings within a period of three months. Subsequently, after completing the disciplinary proceedings, the sixth respondent imposed the punishment of "removal from service".

3. *Mr.G.Vairava Subramanian*, learned counsel for the petitioner raised the following grounds: firstly, the petitioner was not served with the documents which were mentioned in the charges and as such, the petitioner was not able to attend the enquiry in a full-fledged manner. It is a clear violation of the principles of natural justice; Secondly, the main witness for one of the charges was not examined by the disciplinary authority; Thirdly, after knowing the fact that no appeal is available as against the order passed by a Minority Linguistic School, the disciplinary authority accused false allegations and removed the petitioner from service; and the petitioner was not given a fair chance to attend the disciplinary proceedings.



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4. The enquiry was conducted in two folds: one complaint was given by the petitioner as against the Head Mistress and the Lab Assistant and another complaint was given by the Lab Assistant and one another Teacher. Both the complaints were taken on the same platform and the enquiry was conducted; Further, the petitioner lodged a complaint as against the Lab Assistant, alleging that he had videographed the petitioner when she was conducting the Laboratory class for the IX standard students without the permission of the petitioner. The petitioner alleges that the enquiry officer is none other than the Member of the fifth respondent Committee and acted in a biased manner and concluded that all the charges are proved against the petitioner.

5.1. *Per contra*, the learned counsel for the fifth respondent and the party-in-person/sixth respondent filed counters and the submissions made by the learned counsel for the fifth respondent and the party-in-person/sixth respondent, would reveal that on 26.02.2018, an intimation was given to the fifth respondent by the Head Mistress about the serious charges levelled against the petitioner. When a student could not attend the X standard public



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practical examination owing to the death in her family, the teachers were trying to get permission from the concerned Educational Authorities to conduct the examination on another date to save the student's academic year, to which, the external practical examiner also agreed. But the petitioner, who is handling another section of X standard class, expressed her displeasure to conduct separate examination to the said student and informed the external examiner to fail that student.

5.2. However, the fifth respondent did not take any immediate action, since it would affect the teacher, which would consequently affect the students while attending the examination. After knowing this fact, the petitioner lodged a complaint against the Lab Assistant, alleging that he had taken a videograph of the petitioner in the laboratory while conducting Laboratory class.

6.1. The fifth respondent also produced the said videograph through a pen-drive before this Court. This Court viewed the videograph, which reveals no obscene videograph or any photographs of the petitioner.



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6.2. It is stated that before the said incident, the Laboratory Assistant was pushed by the students and as such, there was a complaint given against the said students. On enquiry, the students had apologized and submitted an undertaking that they would not involve in any such activities in future. Therefore, in order to verify the students who had attacked the Lab Assistant, the Lab Assistant switched on the camera in his mobile phone and went inside the laboratory. Thereafter, he had just kept the phone on the table. It does not even picturize the petitioner in any frame. It was just kept on the table, facing the ceiling fan. Therefore, the said videograph has nothing to do with any allegations alleged by the petitioner as against the Lab Assistant.

7. Whereas the charges levelled against the petitioner are very serious and as such, an enquiry office was appointed and an enquiry was conducted. On perusal of the documents, it is seen that the petitioner was served with all documents, except the mark sheets of all the students and the mark sheet of the particular student, who was permitted to attend separate public practical test. The petitioner also



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failed to prove that non-serving of documents caused prejudice to the petitioner and the petitioner was not able to attend the enquiry in a full fledged manner.

8. Learned counsel for the petitioner subsequently raised a ground that the external examiner, who was engaged in the practical test for the student who had attended the funeral of his father, was not examined by the enquiry officer. On perusal of the records, the said external examiner was called for three times to depose before the enquiry officer. However, she, being a friend of the petitioner, did not attend the enquiry and failed to depose before the enquiry officer. The failure of examination of the external examiner is not fatal to the disciplinary proceedings, since the Lab Assistant, who was very much present while the petitioner instructed the external examiner to fail the student, categorically deposed about the instructions given by the petitioner. Therefore, the enquiry officer has rightly held that the charges are proved against the petitioner.

9. The charges levelled against the petitioner is as follows:

“(a) You had not got ready the practicals records of



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pupils of Class X and handed them over to the HM i/c. By the end of January or First week of February or even one week before the Practical Examinations and you had not handled them over to her even on the previous day, atleast and you had placed them on her table only after the Practical Exams were over on 23.02.2018.

(b) On 23.02.2018, during the course of Practical examinations, when the External Examiner had asked you in the Biology Laboratory wherein your X-B students were attending practical exams, to dissect flowers and give them to the students for exam purpose, you left the Biology Laboratory without stating any reason or getting permission and did not return till another question, replacing the old one was asked by the External Examiner.

(c) On 23.02.2018, around 4:30 p.m., you had shouted at the HM i/c, after she requested, the DEO and the External Examiner, to conduct Practical Exams for all the students of X-A, giving another opportunity to a student Miss A. Nikhita who could not attend the practical examination due to a bereavement in her family.

(d) On 26.02.2018, in the evening, after the Practical Exams were over, in the presence of Mr. KVS Panikumar, the Lab Assistant, you had spoken to the External Examiner, Ms. Sangeetha, telling her to fail Miss A.Nikhita, a class X-A student, but she refused to do so.

(e) Soon this matter was recorded in the Book of Intimation to Correspondent, to bring it to the notice of the Correspondent, but he wanted to wait till the exams were over as any action would upset the teacher, thereby her teaching in regular and Special classes, which might affect the students and their



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performance putting their careers in jeopardy, which fact you came to know from the revelations to other members of staff, by Mr. KVS. Panikumar who also had given a statement about your strange request to the External Examiner and to pre-empt any action against you, gave false complaints against him;

(f) You had sent a letter dated 07.03.2018 containing complaints against the HM i/c and the manner of her management of the school as well as the Lab Assistant, Mr KVS. Panikumar, to the Correspondent by Registered post, without sending it through proper channel, i.e., the HM i/c, though clearly mentioned it in your letter, thereby deceiving the Correspondent that the original was given to HM i/c to be forwarded to him;

(g) You were informed on 15.03.2018 that your complaints would be enquired into after the exams were over, but you were to follow the proper procedure and were advised to send its copy through the HM i/c, so that she could respond to your complaints and send her note of response, but you have failed and neglected to do so till date.

(h) Without giving a copy to the HM i/c or waiting for the school management to act on your complaints, you had sent copies of that letter dated 07.03.2018 to the DEO, CEO and other authorities and making those authorities believe / assume that HM i/c was aware of the contents of the said letter, while keeping her in dark, but clarified the issues involved in your letter to the DEO during his enquiry conducted on 11.04.2018 who visited the school, informing the HM i/c, that he would meet the teachers ;

(i) You have been making statements in the teacher's room that you would take complaints, to the media and spoil the reputation of the school, HM



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i/c and the management.

(j) There were your other acts or omissions of not taking special classes for X Standard students and coming late to school, during crucial, exam time."

10. After due enquiry and after giving an opportunity to the petitioner, the enquiry officer concluded as follows:

"1. A heinous crime of asking the External Examiner to fail a student of another Section and another teacher;

2. to cover up her delinquency, heaped baseless and false complaints on the HM i/c and a Co-employee, a Lab Assistant, with least regard for truth or the reputation of the institution/school;

3. brought a group of her relatives, made them enter the school premises without permission and enabled them to approach every teacher and get her/his signature on an alleged statement prepared by them;

4. committed acts prejudicial to the interests of the Institution, whereby it lost its reputation among parents, students, other institutions and their staff, as well as the Department and most importantly, the confidence of the parents and the strength of students. No parent would want to send his ward to a school where a teacher of one section asks the external examiner to fail a student of another Section and misuses her friendship with the external examiner for that purpose or speaks and promotes not unity but division among teachers and students."

11. After serving a copy of the enquiry report, the petitioner was



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given an opportunity to submit her explanation and thereafter, the disciplinary authority passed final orders, thereby imposing the punishment of "removal from service".

12. That apart, on the complaint lodged by the petitioner as against the Lab Assistant and the Head Mistress, the District Education Officer, Chennai conducted an enquiry and rejected the complaint lodged by the petitioner as a false one. Therefore, the grounds raised by the petitioner cannot be countenanced by any means.

13. In view of the above, this Court finds no infirmity or illegality in the order passed by the fifth respondent and the writ petition, accordingly, stands dismissed. There shall be no order as to costs. Consequently, W.M.P.No.8413 of 2022 is closed.

30.07.2024

Neutral Citation : Yes/No

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G.K. ILANTHIRAIYAN, J.

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