



WP No. 5821 / 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM :

THE HONOURABLE DR. JUSTICE D. NAGARJUN

Writ Petition No. 5821 of 2015
and
M.P. No. 1 of 2015

V.N. Sasikumar

...Petitioner

Versus

1.The Correspondent,
Asan Memorial College of
Engineering & Technology,
Post Box No.6, Chengalpattu – 603 001.
[Asan Nagar, 9th KM, Chengalpattu – Mahabalipuram Highway]

2.The General Secretary,
Asan Memorial College of
Engineering & Technology,
Post Box No.6, Chengalpattu – 603 001.
[Asan Nagar, 9th KM, Chengalpattu – Mahabalipuram Highway]

3.The Principal,
Asan Memorial College of
Engineering & Technology,
Post Box No.6, Chengalpattu – 603 001.
[Asan Nagar, 9th KM, Chengalpattu – Mahabalipuram Highway]

4.The Registrar,
Anna University,
Guindy, Chennai – 600 025.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the second respondent herein namely the General Secretary, Asan Memorial College of Engineering & Technology, Post Box No.6, Chengalpattu – 603 001, [Asan Nagar, 9th KM, Chengalpattu – Mahabalipuram Highway], bearing Ref. No. AMCET/Secy-G.M./565/2015 dated 12.01.2015, quash the same and consequently direct the respondents herein to reinstate the petitioner in the post of Asst. Professor (Electrical and Electronics Engineering), Asan Memorial College of Engineering & Technology, Chengalpattu, with effect from 20.01.2015 and with a further direction to treat the period of suspension from 09.10.2014 till the date of reinstatement as one of duty for all purposes and pay the arrears of salary from 09.01.2014 to date of reinstatement with interest at the rate of 18% per annum from the due date to the date of payment and also to pay compensation of a sum of Rs.50,00,000/- by the respondent College for the mental agony, untoward hardship, financial loss, loss of pride in the respondent's college suffered by the petitioner within a time frame that may be stipulated by this Court.

For Petitioner : Mr.K.S. Govinda Prasad

For Respondents : Mr.A.R. Karunakaran for R2

Mr. Vijayakumar for R4.

No appearance for R1



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ORDER

WEB COPY The petitioner herein was removed from services as a Assistant Professor (Electrical and Electronics Engineering) of the first respondent/College, through an order dated 12.01.2015, which is under challenge.

2. According to the affidavit filed in support of this petition, the petitioner has been appointed as Lecturer (Electrical and Electronics Engineering Department) in the Asan Memorial College of Engineering & Technology on 31.05.2010 temporarily and thereafter, his services were regularized with effect from 26.06.2011 and he was granted annual increment with effect from 28.07.2014.

3. He was issued with suspension order dated 10.10.2014 and challenging the same, the petitioner has filed the writ petition before this Court in W.P. No. 27869 of 2014. This Court by order dated 27.10.2014, has dismissed the writ petition with a direction to the petitioner to give reply to the show cause notice issued by the respondents and thereafter, the respondents are directed to pass orders. Subsequently, by order dated 12.01.2015, the petitioner was removed from service, which is under challenge.



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4. First respondent/College is a private college. Learned counsel for the respondents has questioned the maintainability of the writ petition challenging the order of removal issued by a private college. The Hon'ble Supreme Court in a recent decision in the case of '**St. Mary's Education Society & another Vs. Rajendra Prasad Bhargava & others**' reported in '**2022 LiveLaw (SC) 708**' had held that unless the removal of an employee of a non-teaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the Court.

5. In all other cases, the Writ Petition under Article 226 of the Constitution of India cannot be maintained against a private college which does not discharge a public function or a public duty. Thus, a challenge to the order of removal from services issued by a private college to staff cannot be questioned under Article 226 of the Constitution of India in view of the decision rendered in the case of **St. Mary's Education Society** as stated (*Supra*).



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6. Accordingly, the Writ Petition stands dismissed as not maintainable. The petitioner is at liberty to work out his remedy in case if any alternate remedy is available. No costs. Consequently, the connected miscellaneous petition is closed.

22.01.2024

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

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