



WEB COPY



W.P.No.18382 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18382 of 2023
and W.M.P.Nos.17587 & 17589 of 2023

Dr.J.Haja Gani

... Petitioner

Vs.

1. The Quaide Milleth College for Men,
Rep. by its Secretary and Correspondent,
Medavakkam,
Chennai – 600 100.

2. S.Bharath,
Inquiry Officer,
Formerly Civil Judge,
Room No.B-2, First Floor,
No.166, Thambu Chetty Street,
Chennai – 600 015.

3. The Directorate of College Education,
Anna Salai, Saidapet,
Chennai – 600 015.

4. The Regional Joint Directorate of
College Education,
Todd Hunter Nagar,
Nandanam, Chennai – 600 015.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the



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records of the second respondent dated 16.05.2023 quash the same and consequently direct the second respondent to permit the petitioner to engage a legal practitioner to represent and defend him in the domestic inquiry.

For Petitioner : Mr.Akhil Akbar Ali
For Respondents
For R1 : Mr.P.Godsonswaminathan
For M/s. Issac Chambers
For R2 : No appearance
For R3 & R4 : Mrs.R.Neethiperumal
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 16.05.2023, passed by the second respondent, thereby rejected the request made by the petitioner seeking assistance of an Advocate in the domestic enquiry.

2. The petitioner was appointed as an Assistant Professor by the first respondent on 04.03.2003 and subsequently, he was promoted to the post of Associate Professor. While being so, the first respondent served a charge memo on the petitioner and initiated departmental proceedings. The charge memo consisted eight charges and on receipt of the said charge memo, the petitioner submitted his explanation. Without



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satisfying the explanation submitted by the petitioner, the first respondent appointed the second respondent as enquiry officer to conduct enquiry. Therefore, the petitioner requested the second respondent to permit him to engage an Advocate to assist him in the domestic enquiry. However, it was rejected on the ground that, though the enquiry officer is being a retired Judicial Officer, there is no provision to show that the delinquent can be assisted by an Advocate. If the complainant engaged counsel to assist him, then the delinquent is also entitled to engage Advocate for his assistance. Aggrieved by the same, the petitioner filed the present writ petition.

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. It is seen that the first respondent appointed the retired Judicial Officer as enquiry officer. Therefore, the petitioner must be permitted to engage counsel to assist him. It is not a condition precedent that only if the complainant viz., the management engaged the counsel then only the delinquent can engage counsel for his assistance. The



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second respondent is being a retired Judicial officer, he has vast legal knowledge and experience. However, the delinquent does not have any legal knowledge and experience. Therefore, he sought for assistance from the Advocate in the domestic enquiry.

5. Further, the learned counsel appearing for the first respondent submitted that the first respondent has no objection to engage a counsel by the petitioner for his assistant in the domestic enquiry.

6. In view of the above facts, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the impugned order dated 16.05.2023, passed by the second respondent, is hereby quashed. The petitioner is permitted to engage a counsel for his assistance before the domestic enquiry. The second respondent is directed to complete the enquiry within a period of three months from the date of receipt of a copy of this Order. It is also made clear that the petitioner shall co-operate for enquiry.



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7. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

22.07.2024

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

rts

To

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