



WP.(MD).No.1979 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.1979 of 2024
and
W.M.P.(MD)No.1973 of 2024

M.Kalaiselvi

... Petitioner

Vs.

The Joint Director,
Tamilnadu School Education (Higher Secondary),
DPI Campus,
College Road,
Chennai – 600 028.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for the records in Na.Ka.No.043848/W2/E3/2023 dated 01.12.2023 on the file of the respondent and quash the same.

For Petitioner
For Respondent

: Mr.K.Ramakrishnan
: Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned proceedings in Na.Ka.No.



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043848/W2/E3/2023 dated 01.12.2023 by the respondent.

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2.The petitioner is working as a Post Graduate Maths Teacher at Ramanathapuram district, Thirupullani Government Higher Secondary School. While she was working as a Post Graduate Maths Teacher at Kolathur Government High School, Kovilpatti Division, Thoothukudi District in the year 2022, alleging that during her service in the said school, in order to conduct the Parents Teachers Association Meeting, the petitioner required one student of a particular community to participate in full strength with their parents in order to prove that they are higher community than a particular community. The said alleged conversation was uploaded in the social media on 16.06.2022, following which she was placed under suspension through an order in R.CNo.3824/A2/2022 dated 16.06.2022. The Deputy Superintendent of Police, Vilathikulam Sub Division conducted a thorough investigation and after investigation referred the matter as 'action drop' through an enquiry proceeding in C.No.N.DIS/50/V6PS/2022 dated 17.10.2022. Simultaneously, a separate enquiry was also conducted by the Chief Educational Officer, Thoothukudi District in Na.Ka.No. 3824/A2/2022 dated 02.08.2022. Thereafter, based on the report of



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the Deputy Superintendent of Police, the petitioner's suspension was revoked by the Chief Educational Officer, Thoothukudi District through letter Na.Ka.No.40/2023 dated 24.08.2023. Following which, she was transferred to the Government High School at Tirupulani, Ramanathapuram District and presently she is serving there at from 30.08.2023. Now, this respondent has issued a letter in Na.Ka.No.043848/W2/E3/2023 dated 01.12.2023 for conducting an enquiry on the recommendation of National Schedule Caste and Schedule Tribe Welfare Commission. Claiming the said proceedings as arbitrary, this Writ Petition came to be filed.

3.The learned counsel for the petitioner submitted that the Chief Educational Officer, Thoothukudi District has already conducted an enquiry in respect of the alleged occurrence dated 07.05.2022 and he himself after receiving the thorough enquiry report of the Deputy Superintendent of Police, Vilathikulam dated 17.10.2022 revoked the petitioner's suspension vide proceedings dated 16.08.2023. Hence, initiating an enquiry afresh on the recommendation of National Schedule Caste and Schedule Tribe Welfare Commission for the same set of allegation is unwarranted. Reiterating that the respondent in addition to the departmental



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enquiry has also received the report of the Deputy Superintendent of Police Vilathikulam Subdivision in respect of the alleged occurrence in which it has been clearly reported as action dropped, vide report dated 17.10.2022, the learned counsel for the petitioner submitted that ordering as fresh enquiry on the same set of facts is not permitted under law. That apart he submitted that having completed a departmental enquiry by the Chief Educational Officer, Thoothukudi District, at the first instance now initiating further enquiry with the same rank of officer is also not permitted under law and sought for allowing the Writ Petition quashing the impugned proceedings dated 01.12.2023.

4.Per contra the respondent has filed a counter affidavit and the learned Government Advocate for the respondent submitted that since already an enquiry has been conducted by the Deputy Superintendent of Police and the report has been received, further enquiry is not necessary. It is pertinent to mention that the suspension of the petitioner was revoked and she was reinstated in service only without prejudice to the disciplinary action proceeded as against her. Revocation of suspension and reinstatement into service would not mean that the departmental proceedings has



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been withdrawn. The Joint Director (High Secondary) is the appointing authority and competent authority to initiate disciplinary proceedings against the writ petitioner. Hence, the impugned proceedings dated 01.12.2023 is valid in law. The enquiry officer appointed by the respondent will enquire into the alleged charges. At the time of enquiry, the petitioner will be given full opportunity to submit her explanation. If the writ petitioner is found guilty, she will be punished for the lapses and otherwise departmental disciplinary proceedings would be dropped. Hence, framing of charges under departmental disciplinary proceedings ordering enquiry is a routine administrative exercise as per the Tamil Nadu Civil Services Discipline and Appeal Rules and the same need not be interfered with. On that basis, he pressed for dismissal of the Writ Petition.

5.Heard the learned counsel for the petitioner, the learned Government Advocate for the respondent and carefully perused the materials available on record.

6.Pursuant to the complaint lodged by one S.M.A.Gandhi Mathi Nathan of Pudukottai District, the Deputy Superintendent of



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Police, Vilathikulam, Thoothukudi District was appointed as an enquiry officer to enquire into the allegations against the petitioner.

The allegation as against the petitioner that she had incited communal disharmony among the students by a particular conversation which was uploaded in the social media. After elaborate investigation and enquiry and on getting the statement from the petitioner, the Deputy Superintendent of Police/Enquiry Officer concluded that the alleged conversation of the petitioner made on 07.05.2022 has nothing to do with communal disharmony or communal animosity and on that basis, he concluded that further investigation or registration of case as against the petitioner is unwarranted and closed the case as against the petitioner. After referring the matter as action dropped through an enquiry proceedings in C.No.N.DIS/50/V6PS/2022 dated 17.10.2022, the same was forwarded to the Chief Educational Officer, Thoothukudi District. Following which, the petitioner's suspension was revoked and she was reinstated.

7.Though the learned Government Advocate for the respondent contended that the petitioner was reinstated only without prejudice to the pending departmental proceedings, a



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careful perusal of the impugned order dated 01.12.2023 would reveal that the same has been re-initiated only at the instance of the letter received from National Schedule Caste and Schedule Tribe Welfare Commission dated 21.06.2022 and the alleged case as against the petitioner has been thoroughly investigated by a Deputy Superintendent of Police and thereafter, pursuant to the investigation and enquiry action as against the petitioner has been dropped by the proceedings of the Deputy Superintendent of Police. In the teeth of the enquiry proceeding of the Deputy Superintendent of Police, Vilathikulam Subdivision bearing C.No.N.DIS/50/V6PS/2022 dated 17.10.2022, the disciplinary proceedings which is likely to be initiated by the impugned proceedings of the respondent dated 01.12.2023 cannot stand the scrutiny of law.

8. Time and again this Court and the Hon'ble Supreme Court of India has held repeatedly that when the charges were not just similar but identical and evidence, witnesses and circumstances were all same with respect to the criminal case and that of the disciplinary proceedings in such situation, allowing the disciplinary authority to proceed as against the delinquent would be unjust,



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9.Since, I am of the considered opinion that the closure report of the Deputy Superintendent of Police, Thoothukudi District by his proceedings dated 17.10.2022 has been made only after a thorough investigation and enquiry, this Court in judicial review can certainly grant redress to the writ petitioner here in. Observing that in exercise of the discretion of this Court, I conclude that allowing the respondent to proceed with the disciplinary proceeding, ignoring the closure report of the Deputy Superintendent of Police, Thoothukudi District dated 17.10.2022 in favour of the petitioner would be unjust, unfair and oppressive.

10.In view of the same, the impugned order dated 01.12.2023 is quashed and accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

To
The Joint Director,
Tamilnadu School Education (Higher Secondary),
DPI Campus,
College Road, Chennai – 600 028.

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