



W.P(MD).No.7188 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.7188 of 2023

and

W.M.P(MD)No.6779 of 2023

Buddhar Middle School,
represented by its Secretary,
Venugopal, Thenkarai,
Periyakulam, Theni District.

....Petitioner

Vs

- 1.The Joint Director of School Educational
(Elementary School),
Directorate of School Education (Elementary School),
DPI Campus, College Road,
Chennai-6.
- 2.The District Educational Officer (Elementary Education),
O/o the District Educational Office,
Theni, Theni District.
- 3.The Block Educational Officer,
O/o the Block Educational Office,
Periyakulam, Theni District.

4.M.Vanideswari

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No. 38/A2/2022, dated 08.02.2023 and quash the same as illegal and



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consequently to direct the 2nd respondent to approve the dismissal of the 4th respondent.

For Petitioner : Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates

For R1 to R3 :Mr.M.Sarangan
Additional Government Pleader

For R4 :No Appearance

ORDER

The present writ petition has been filed to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.38/A2/2022, dated 08.02.2023 and quash the same as illegal and consequently to direct the 2nd respondent to approve the dismissal of the 4th respondent.

2. The petitioner school is a private aided school receiving grant-in-aid from the State Government and the same is governed by the provisions of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. The said school has a total strength of 269 students and 8 teaching staffs. The 4th respondent is working as a B.T Assistant (Maths) in the said school. Since she acted against the interest of the management and the welfare of the students, she was placed under suspension on 18.07.2011, following which



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she was issued with a charge memo, dated 18.08.2011 on 14 counts and an additional charge memo issued on 07.09.2011 on 11 counts. The 4th respondent having failed to give her explanation to the charge memo, an Enquiry Officer was appointed, duly enquiry notice was issued on 24.09.2011 calling upon the 4th respondent to appear for the enquiry scheduled to be held on 03.10.2011. On the request of the 4th respondent, the enquiry was adjourned by 10 days and was postponed to 13.10.2011.

3. In the meanwhile, the 4th respondent challenged the said enquiry notice by filing 2 writ petitions in W.P(MD)Nos.8998 & 11602 of 2011 before this Court and both the writ petitions were dismissed by this Court vide order, dated 10.12.2011 with a direction to permit the 4th respondent to engage a Lawyer as the Enquiry Officer himself was an Advocate. W.A(MD)No.98 of 2012 was preferred by the petitioner and W.A(MD)No. 130 of 2012 was preferred by the 4th respondent before the Hon'ble Division Bench. The Hon'ble Division Bench was pleased to allow the appeal preferred by the petitioner herein in W.A(MD)No.98 of 2012 and dismissed the appeal filed preferred by the 4th respondent in W.A(MD)No.130 of 2012. Thereafter, the 4th respondent was called upon for enquiry scheduled to be held on 10.03.2012. Fairly giving opportunity to the 4th respondent on various dates, after a full fledged enquiry, the Enquiry Officer came to a conclusion



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that all the charges levelled against the 4th respondent are proved. A copy of the enquiry report was communicated to the 4th respondent along with show cause notice calling upon her to submit her further explanation. On receipt of further explanation from the 4th respondent, the school committee decided to dismiss the 4th respondent from service.

4. The said decision of the school committee in the form of proposal was forwarded to the District Elementary Educational Officer, now re-designated as District Educational Officer i.e., the 2nd respondent on 16.05.2012 seeking approval of the dismissal of the 4th respondent. The 2nd respondent vide proceedings, dated 19.07.2012 directed the Block Educational Officer i.e., the 3rd respondent to conduct an enquiry and to submit a report. The said order was challenged by the petitioner in W.P(MD)No.13515 of 2012 and the same was allowed on 17.10.2012 directing the 2nd respondent to take a final decision on the proposal submitted by the petitioner. The 1st respondent vide proceedings, dated 18.12.2015 issued notice to the petitioner. The said notice was challenged before this Court in W.P(MD)No.2562 of 2016 and the same was allowed on 21.10.2021 directing the 2nd respondent again to consider the proposal submitted by the petitioner. Since the same was not considered, the petitioner had filed Cont.P(MD)No.1727 of 2022 before this Court. During the pendency of the



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contempt petition, the impugned proceedings, dated 08.02.2023 came to be passed by the 2nd respondent rejecting the proposal of dismissal of the 4th respondent. Challenging the same, this writ petition came to be filed.

5. The learned counsel for the petitioner vehemently submitted that the impugned order of rejection of the proposal of dismissal of the 4th respondent from service, dated 08.02.2023 is self contradictory. Following the order of this Court in W.P(MD)Nos.2562 of 2016, 22215 of 2017 and 2265 of 2016 and 18514 of 2017, an enquiry committee was constituted by the 2nd respondent for the purpose of conducting enquiry on the charges framed as against the 4th respondent and others. That apart, having accepted the findings of the enquiry committee of the petitioner school and having observed in the impugned order that the 4th respondent along with one Ramathilagam had conspired to hijack the administration of the petitioner school thereby intervening with the proper administration of the school by the Principal one Venugopal and that the findings as concluded by the enquiry committee is also as against the 4th respondent ought not to have rejected the proposal of the petitioner school to dismiss the 4th respondent from service and pressed for allowing the writ petition.



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6. Per contra, the learned Additional Government Pleader has filed a counter and submitted that the only question to be decided in this writ petition is whether the 2nd respondent is having power to refuse the proposal submitted by the petitioner on the ground that the punishment is disproportionate for the charges proved against the 4th respondent or not. It is the duty of the authorities concerned to see whether the disciplinary proceedings against the delinquent has been conducted following due procedure or not and whether the procedure contemplated in the Act has been scrupulously followed in the enquiry proceeding or not and whether the delinquent has been afforded with appropriate opportunity before passing orders or not and if the authority comes to a conclusion that all the procedures have been duly followed, it is necessary for the authority to see to the fact whether the punishment proposed is proper. In view of the punishment of removal from service, he further submitted that Section 22 of Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 mandates that it has to be seen whether adequate and reasonable grounds exist for the proposal. On perusal of the records, the competent authority came to a conclusion that there is no adequate and reasonable grounds for proposed punishment of dismissal from service and hence, on that basis, he pressed for dismissal of the writ petition.



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7. Heard the learned counsel on either side and perused the materials available on record.

8. Since the crux of the *lis* in hand revolves around the provision under Section 22 of the Tamil Nadu Recognized Private Schools (Regulations) Act, 1973, the same is extracted as follows:

“22. Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in private schools. -

(1) Subject to any rule that may be made in this behalf, no teacher or other person employed in any private school shall be dismissed, removed, or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment.

(3) (a) No teacher or other person employed in any private school shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of section 21, of such teacher or other person is contemplated. (b) No such suspension shall remain



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in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the competent authority may, for reasons to be recorded in writing extend the said period of two months, for a further period not exceeding two months, if in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other person.”

9. Section 22 Sub Clause (2) clearly mandates that whenever a proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher in any private school is communicated to the competent authority, that authority shall, if satisfied that there are any adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment. No doubt in the impugned order, the competent authority i.e., the 2nd respondent has clearly admitted that the enquiry conducted by the school committee would reveal that the 4th respondent along with another teacher, namely Ramathilagam had indulged in hijacking the administration of the school as well as interfering with the administration of the school by the school Principal one Venugopal and that the conclusion of the enquiry committee is completely against the 4th



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respondent. That apart, nowhere in the impugned order, the 2nd respondent had indicated that the said conduct of enquiry or the conclusion arrived by the enquiry committee is not in accordance with the provisions of the Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 and other relevant rules. Having come to a conclusion that the finding of the enquiry committee is completely against the 4th respondent, in terms of Section 22 Sub Section (2), the 2nd respondent ought to have approved the proposal for dismissal of the 4th respondent from service. On the contrary, the 2nd respondent proceeded to reject the proposal and a counter affidavit has also been filed. The learned Additional Government Pleader has vehemently submitted that the proposed punishment would not commensurate to the proved charges as against the 4th respondent. However, the impugned order does not reflect the same. But the said stand has been taken by the respondents 1 to 3 only at the time of filing the counter.

10. It is pertinent to note that the 4th respondent has been put on notice and the same has been served upon her on 24.04.2023. She has neither made her appearance nor preferred to file any counter through counsel.

11. In view of the same, this Court is inclined to quash the impugned order, dated 08.02.2023 and the same is quashed. The petitioner is directed to



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submit a proposal to approve the dismissal of the 4th respondent from service to the 2nd respondent afresh and the 2nd respondent, on receipt of the same, is directed to pass a reasoned order within a period of four (4) weeks thereafter.

12. With the above said observations, this Writ Petition stands allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet : Yes

Index : Yes/No

NCC : Yes/No

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To

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DPI Campus, College Road,
Chennai-6.
- 2.The District Educational Officer (Elementary Education),
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L.VICTORIA GOWRI, J.

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