



W.P.(MD)No.17527 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17527 of 2024

and

W.M.P.(MD)No.15074 and 15075 of 2024

G.Rajan

... Petitioner

Vs.

1.The Director,
Directorate of School Education Department,
DPI Complex, College Road,
Chennai.

2.The Chief Educational Officer,
Tuticorin District,
Tuticorin.

3.The District Educational Officer (Primary),
Tuticorin District,
Tuticorin.

4.The Block Educational Officer,
Udankudi Block,
Udankudi,
Tuticorin District.

5.P.Parvathadevi

6.The School Committtee,
R.M.V.Middle School,
Sirunadar Kudiyiruppu,
Kulasekarapattinam Via,
Tiruchendur Taluk,
Tuticorin District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order of the third respondent in Na.Ka.No.1146/A3/2024 dated 01.07.2024 and quash the same as illegal and consequently direct the third respondent to restore the Secretaryship post to the petitioner for the sixth respondent School.

For Petitioner : Mr.R.Kannan
For R1 to R4 : Mr.T.Amjadkhan
Government Advocate
For R5 : Mr.T.Lajapathiroy
Senior Counsel
for Mr.M.Mahaboob Fazil

ORDER

This writ petition has been filed challenging the order of the third respondent in Na.Ka.No.1146/A3/2024 dated 01.07.2024 as illegal and consequently to direct the third respondent to restore the Secretaryship post to the petitioner for the sixth respondent School.

2.Heard Mr.R.Kannan, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents 1 to 4 and Mr.T.Lajapathiroy, learned Senior Counsel for Mr.M.Mahaboob Fazil, learned counsel for the fifth respondent.



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3.The petitioner is the Secretary of the sixth respondent School namely R.M.V.Middle School, which is a recognized private aided School getting grant-in-aid from the Government. The School was established by the forefathers of the petitioner in the year 1914 in Survey No.545/1. Patta for that land also stands in the name of the School. The fifth respondent is the Headmistress of that School taking classes to first to eighth standard.

4.The petitioner received complaints with regard to the conduct of the fifth respondent, which regard to which some whats app messages were also widely circulated in the Social Media. As such the messages were very scandalous and affected the reputation of the petitioner's School, the petitioner being a Secretary, has called for an explanation from the fifth respondent vide notice dated 22.03.2024, which has been replied by the fifth respondent on 04.04.2024 stating that the messages are false.

5.Thereafter, the petitioner made a complaint to the Superintendent of Police, Tuticorin District about the said messages and sent a communication to the third and fourth respondents with regard to the conduct of the fifth respondent seeking necessary action to be taken against the fifth respondent. However, the fourth respondent sent a communication stating that the petitioner



scolded the fifth respondent and prevented the fifth respondent from discharging her duty as Headmistress.

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6.Though the petitioner has made a complaint before the official respondents, the same has not been acted upon in the manner known to law. Hence, the petitioner passed a resolution dated 03.06.2024 to temporarily suspend the fifth respondent and implemented the same. In the meanwhile, a show cause notice was issued against the petitioner to give an explanation as to why the petitioner is not permitting the fifth respondent to enter into the School. Though the petitioner submitted a detailed explanation narrating the entire incidents, the third respondent instead of taking action as against the fifth respondent, has passed the impugned order dated 01.07.2024 cancelling the Secretaryship of the petitioner and bringing the School under the direct control of the Department. The same is under challenge in this writ petition.

7.The learned counsel for the petitioner submitted that the impugned order has been passed in contravention to the Rule 25(5) of the Tamil Nadu Private Schools (Regulation) Rules, 2023, which mandates that the competent authority shall remove the Secretary after giving reasonable opportunity of hearing. However, no reasonable opportunity of being heard was given even to the petitioner or to the School Committee.



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8.It is the further contention of the learned counsel for the petitioner that the impugned order cannot be sustained on the ground that no prior notice was issued to the petitioner. That apart, Rule 25(5) of the Rules cannot be pressed into service as against the petitioner as the conduct of the fifth respondent had in fact affected the School and after the impugned order, 50% of the Students have been withdrawn from the petitioner's School. It is the further contention of the petitioner that the properties dealt by the petitioner is not belonging to the School as alleged by the fifth respondent and it is only his self acquired property. He submitted that at any event, the order impugned in this writ petition is passed in utter violation of principles of natural justice and the same is liable to be set aside.

9.The learned counsel for the fifth respondent submitted that the petitioner has sold the lands belonging to the School without obtaining any permission from the Educational Officers. When the same was questioned by the fifth respondent, the petitioner manipulated the records against the fifth respondent and created false complaint against her. The said fact was established in a police enquiry that was undertaken on the basis of the complaint given by the petitioner registered in Crime No.152 of 2024 dated 20.06.2024.



10.He further contended that the writ petition is not maintainable as the impugned order has been passed taking note of the various irregularities committed by the petitioner and after giving proper opportunity to the petitioner. Further, the petitioner has an alternative appeal remedy before the competent authority under Section 41 of the Tamil Nadu Recognized Private School Regulation Act and Rule 2(b) and 2 (f) of the Tamil Nadu Recognized Private Schools Regulation Rules.

11.The learned Government Advocate for the official respondents submitted that no proposal has been sent by the School Committee seeking approval of the order of suspension granted to the fifth respondent.

12.Perusal of the impugned order, in which various allegations have been raised by the petitioner by relying upon some social media messages with regard to the alleged misconduct of the fifth respondent, this Court is of the view that such social media messages cannot be given importance at this stage. Such messages have to be proved in accordance with law. Some text messages found in a screen-shot cannot be a piece of evidence to prove the allegations levelled against the fifth respondent. The electronic evidences have to be tested on its own merits. Therefore, the whats-app messages are not germane for consideration in disposing the writ petition.



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13.The contention of the petitioner that before passing the impugned order, no opportunity has been given to the petitioner, cannot be countenanced for the simple reason that the petitioner was given with a show cause notice as to why action should not be taken as against him for not permitting the fifth respondent to enter into the School and the same was also replied by the petitioner himself on 18.06.2024 and 21.06.2024.

14.Though the petitioner initially made serious allegations against the fifth respondent about her misconduct, in the police investigation the petitioner has been warned not to project such messages and the complaint given by the petitioner was closed. That apart, the resolution of the School Committee for suspending the fifth respondent was also not placed before the competent authority at any point of time.

15.The authorities taking note of the fact that the alleged complaint against the fifth respondent is not true and it is only the petitioner, for the reasons best known to him, had unnecessarily prevented the fifth respondent from entering into the school and after perusing the reply given by the petitioner to the show cause issued by the official respondents, has passed the order impugned in this writ petition.



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16.At any event, as against the order passed by the competent authority under Rule 25(5) of the Tamil Nadu Recognized Private School Regulation Rules, 2023 there is an effective alternative appeal remedy under Section 41 of the Tamil Nadu Recognized Private School Regulation Act and Rule 2(b) and 2 (f) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 2023 before the Joint Director, since the order has been passed by the District Elementary Officer.

17.Such view of the matter, this writ petition is **dismissed** with liberty to the petitioner to work out his remedy before the appellate authority by canvassing all his grounds raised in this writ petition. No costs. Consequently, connected miscellaneous petitions are closed.

05.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

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Directorate of School Education Department,
DPI Complex, College Road, Chennai.
- 2.The Chief Educational Officer,
Tuticorin District, Tuticorin.
- 3.The District Educational Officer (Primary),
Tuticorin District, Tuticorin.
- 4.The Block Educational Officer,
Udankudi Block, Udankudi,
Tuticorin District.



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N.SATHISH KUMAR, J.

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