



W.P(MD)No.21656 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2023
Pronounced on : 22.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

W.P(MD)No.21656 of 2023

M.Udhaya Baskaran

... Petitioner

Vs.

1. The Director,
Directorate of Vigilance and Anti-Corruption (DVAC),
No.293, M.K.N.Road,
Aladur, Chennai-600 016.
2. The Superintendent of Police,
Southern Range,
Vigilance and Anti Corruption,
Chennai-16.
3. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
1/165G, Alagar Kovil Main Road,
Madurai-625 002.
4. Dr.K.Geetha,
5. Dr.P.Ponmuthuramalingam
6. Dharmar
7. Jothiraj

... Respondents



W.P(MD)No.21656 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ more particularly in the nature of WRIT OF MANDAMUS or any other appropriate Writ or Direction, directing the respondent no.1 to 3 herein to conduct proper enquiry upon the petitioner's complaint dated 22.06.2023 and take appropriate action against the respondent no.4 to 7 within a stipulated time period in accordance with law.

For Petitioner : Mr.M.Karthikeya Venkatachalapathy

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor
for R1 to R3

: No Appearance for R4 , R5 and R6

: Mr.G.Prabhu Rajadurai for R7

ORDER

This writ petition has been filed to direct the respondents 1 to 3 herein to conduct proper enquiry upon the petitioner's complaint dated 22.06.2023 and take appropriate action against the respondents 4 to 7 within a stipulated time period in accordance with law.

2.The petitioner is the Executive Committee Member of Kallar Kalvi Kazhagam, Pasumpon Muthuramalinga Thevar College, Usilampatti, Madurai District. The same was registered under



W.P(MD)No.21656 of 2023

Registration Number XXI of 1860 of Registration of Societies Act with Registration No.138 of 1967, dated 30.12.1967. The said college has gained reputation in the area and has strength of more than 4000 students with eight Government Aided Courses as well as Self Finance Courses. As per the bye-laws and rules of Kallar Kalvi Kazhagam, the management is run by a committee consisting of one President, One Secretary, one Treasurer and 13 members, whose tenure is fixed for an elected term of three years. The Government issued order in G.O.No. 1021 of Education Department, dated 02.09.1985, which has specific guidelines relating to the disbursement of the salary; Sanction leave/increment etc., giving power to the fourth respondent herein namely Director of Collegiate Education. As per the G.O.No.1021 of Education Department, in case of dispute in the management, the fourth respondent has power to take of the management. The power is only in respect of running the educational institution and not to appoint any person to substitute the post by way of transferring from any other college. But the fourth respondent conspired with the respondents 5 to 7 and transferred one Palpandi from the sixth respondent college to the seventh respondent college without jurisdiction, by receiving huge amount of bribe. In the said commission of illegality, according to the petitioner, all the persons,



W.P(MD)No.21656 of 2023

received huge bribe amount from the said palpandi. The allegation of the petitioner is that he sent a representation to the respondents 1 to 3 to take action against the respondents 4 to 7. The second respondent on receiving the same sent a communication to the petitioner on 05.07.2023 stating that the allegation is general in nature and hence, he forwarded the petition to the fourth respondent. Thereafter, the petitioner filed this petition to direct the respondents 1 to 3 to take action on the basis of the complaint given by the petitioner.

3. Even though notice was ordered to the respondents, no one appeared except the seventh respondent.

4. The learned Counsel appearing for the seventh respondent submitted that the petitioner has no *locus-standi* to question the transfer order made by the fifth respondent and the allegation is baseless and the seventh respondent has no role in the above activities. Once the competent officers namely respondents 4 and 5 passed the transfer order, it is the duty to implement the same. Further, the transfer order is the subject matter of the writ petition pending before this court. Further, the transfer order was passed in the interest of the students and hence, he



W.P(MD)No.21656 of 2023

seeks for dismissal of the writ petition. The remaining respondents have not appeared before this Court.

5.The learned Additional Public Prosecutor submitted that the allegation is general and hence the respondents 1 to 3 has forwarded the complaint to the fourth respondent. Hence, he seeks for dismissal of the writ petition.

6.This Court considered the submission made on either side and also perused the record.

7.The writ petition affidavit itself specifically averred that the respondents 4 and 5 conspired with the respondents 6 and 7, receiving huge bribe amount from palpandi and passed the transfer order from the sixth respondent college to the seventh respondent college. It is further alleged that the said action is against the Government order and also private college Regulation Act. As per the averment made in the writ petition, either the fourth respondent or the seventh respondent has not issued order to transfer the Palpandi from the college of the sixth respondent to the permanent post of the seventh respondent college. The



W.P(MD)No.21656 of 2023

said allegation is serious in nature and the first respondent without looking into the seriousness of the allegation, simply forwarded the communication to the fourth respondent. There is specific allegation of bribe. In the said circumstances, the first respondent is duty bound to look into the allegations as per the vigilance manual and to conduct the preliminary enquiry by summoning the records from all the parties and consider the representation whether, the allegation is correct or not. The first respondent without considering the same, simply forwarded the communication to the fourth respondent. Even though the fourth respondent was served with the notice, she did not make her appearance and deny the allegation made in the writ petition. It is well settled principle in the case of the writ petition that where, the allegations is not controverted by the corresponding respondent, it has to be taken as true. In the said circumstances, the allegation made against the fourth respondent and respondents 5 and 6 is *prima facie* appeared to be true.

8.Hence, this Court is inclined to issue direction to the first respondent to conduct the preliminary enquiry as per the vigilance manual, on the basis of the complaint dated 22.06.2023, and complete the same and submit the report before this Court within a period of two



W.P(MD)No.21656 of 2023

months from the date of receipt of a copy of this order.

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9. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

22.02.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/ No

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To

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P(MD)No.21656 of 2023

K.K. RAMAKRISHNAN. J.,

vsg

Pre-delivery order made in
W.P(MD)No.21656 of 2023

Dated :22.02.2024