



WP(MD)No.22876 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.22876 of 2019

and

WMP(MD)Nos.19618 of 2019 and 10899 of 2020

The Secretary,
Thirthapathy Higher Secondary School,
Ambasamudram,
Tirunelveli District.

... Petitioner

Vs

1.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

2.B.Srinivasan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the impugned order passed by the 1st respondent under Na.Ka.No.5006/(A2)A2/2017, dated 03.10.2019 and to quash the same as illegal and further direct the 1st respondent to approve the dismissal of the 2nd respondent in the light of the proposal sent by the petitioner dated 27.09.2017.

For Petitioner : Mr.K.R.Laxman
For Respondent : Mr.K.Balasubramani,
No.1 Special Government Pleader
For Respondent : Mr.Karthik for
No.2 M/s.Lajapathi Roy Associates



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ORDER

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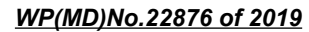
The petitioner an educational institution initiated disciplinary proceedings as against the 2nd respondent / a Post Graduate Teacher and in conclusion of the disciplinary proceeding, it has passed an order of dismissal from service. The order of dismissal was submitted to the 1st respondent / Chief Educational Officer for approval as required under the Tamil Nadu Private Schools (Regulation) Act 2019. The 1st respondent after perusing the materials found that sufficient opportunity was not provided to the 2nd respondent and therefore remitted the matter back to the petitioner institution for fresh consideration by providing sufficient opportunity to the 2nd respondent. As against the order of the 1st respondent the school management has filed this writ petition.

2.The learned Counsel for the petitioner submits that though sufficient opportunities were provided to the 2nd respondent during the course of enquiry, without considering the same, the 1st respondent has passed the order in a mechanical manner.



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3.The learned Counsel for the 2nd respondent submits that the 2nd respondent was placed under suspension on 09.06.2017 contemplating departmental proceedings and he was issued with a charge memo dated 14.06.2017. The 2nd respondent has filed a writ petition before this Court in WP(MD)No.14720 of 2017 challenging the correctness of the charge memo and also claimed that he was not furnished with the Management Rules and this Court by order dated 08.08.2017 disposed of the writ petition with a direction to the school management to furnish the Management Rules to him. Aggrieved over the same, the 2nd respondent filed a writ appeal in WA(MD)No.1413 of 2017 and it was dismissed by this Court on 16.11.2017 with a direction to the school management to furnish the Management Rules within a period of one week from the date of receipt of the order. In the meantime the school management without furnishing the Management Rules as directed by this Court in WP(MD)No.14720 of 2017 and pending the writ appeal, has in a hurried manner concluded the disciplinary proceedings and proposed to impose a punishment of dismissal from service and sought approval of the same from the 1st respondent on 27.09.2017. The 1st respondent after considering the materials found that when the issue was pending before the court in writ appeal, the school management has proposed to impose the punishment. Therefore, in order to





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allowance. Challenging the same, the Chief Educational Officer had filed a writ appeal and it was partly allowed by order dated 28.08.2018 by directing the petitioner school to pay the subsistence allowance. The 2nd respondent also claimed that due to non-payment of subsistence allowance, he could not defend the departmental proceedings effectively.

6.Despite the orders of this Court the school management has not furnished Management Rules to the 2nd respondent nor had it challenged such directions of this Court, but proceeded with the departmental proceedings and proposed to pass order of dismissal. Therefore, this Court is not inclined to interfere with the orders of the 1st respondent remanding the matter for fresh consideration by the disciplinary authority. Accordingly this writ petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

27.11.2024

Internet : Yes / No
DSK
To

The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.



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B.PUGALENDHI.J.,

DSK

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