



WP(MD)No.27435 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.27435 of 2022 and
WMP(MD)No.21536 of 2022**

Muthumari

... Petitioner

Vs

- 1.The Chief Educational Officer,
Madurai, Madurai District.
- 2.The District Educational Officer (Elementary),
Thirumangalam,
Madurai District.
- 3.The Block Educational Officer,
Thirupparankundram,
Madurai District.
- 4.N.G.G.O Aided Elementary School,
Represented by is Secretary,
Nagamalaipudukkottai,
Thirupparankundram Union,
Madurai – 625 019.
- 5.The Secretary,
NGGO Aided Elementary School,
Nagamalaipudukottai,
Thirupparankundram Union,
Madurai – 625 019.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records pertaining to the impugned charge memo issued by the 5th respondent in No.Nil dated 07.11.2022, quash the same.

For Petitioner : M.Saravanan
For Respondent : Mr.P.T.Thiraviyam
Nos.1 to 3 Government Advocate
For Respondent : Mr.R.Murali
No.5
For Respondent : No appearance
No.4

ORDER

The petitioner is a Secondary Grade Teacher in the 4th respondent, aided - non minority school governed under the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. The petitioner was issued with a charge memo by the 5th respondent / the Secretary of the school on 07.11.2022. The same is challenged in this writ petition that the Secretary is not having any jurisdiction to issue this charge memo.



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2.The learned counsel for the petitioner by referring to Section 18 of the Tamil Nadu Recognised Private Schools (Regulation) Act [herein shall be referred to as 'the Act'] submits that the Secretary of the school is not the competent authority to initiate any disciplinary proceedings. It is the school committee, which has to initiate the proceedings. In the absence of any decision taken by the school committee, the Secretary cannot issue show cause notice and charge memo.

3.The learned Counsel for the 5th respondent submits that the charge memo was issued pursuant to the proceedings of the 3rd respondent / the Block Educational Officer in Na.Ka.No.1073/A1/2021, dated 03.03.2022 and also based on the resolution of the school committee dated 18.03.2022. He further submits that a criminal case was registered as against the petitioner and her husband on the file of the District Crime Branch in Crime No.26 of 2021 under Sections 120(b), 294(b), 406 and 420 IPC and the petitioner was arrested. However the petitioner has failed to



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inform this to the department and provided false information for her absence to duty. Based on the letter of the Inspector of Police dated 03.01.2021, the Block Educational Officer by proceedings dated 03.03.2022 instructed the school committee to take disciplinary proceeding against the petitioner. Accordingly school committee was convened on 18.03.2022 and they have passed a resolution to take disciplinary proceedings as against this petitioner and also approved the appointment of enquiry officer. Subsequently the 5th respondent has issued a charge memo based on the resolution passed by the school committee and it is not the decision of the 5th respondent alone. The learned Counsel for the 5th respondent has also produced the copy of the resolution of the school committee dated 18.03.2022.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The proceedings challenged in this writ petition is a charge memo. The Hon'ble Supreme Court in *Union of India Vs Kunisetty*



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Stayanarayana, reported in ***2006 SCC Vol.II, 28***, has held that the charge memo or show cause notice shall not be interfered with by the orders of the Courts except lack of jurisdiction of the authority or if any *mala fides* are attributed.

6. In this case, the petitioner has raised a plea that that the 5th respondent / the Secretary is not having any authority to issue the impugned charge memo. The learned Counsel has relied on Section 18 of the Act. This section deals with the functions of the school committee and the responsibility of educational agency under the Act, which reads as under :

“18. Functions of the school committee and responsibility of educational agency under the Act.

(1) Subject to the provisions of this Act and the rules made thereunder, the school committee shall have the following functions, namely:

(a) to carry on the general administration of the private school excluding the properties and funds of the private school;

(b) to appoint teachers and other employees of the private school, fix their pay and allowances and define



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their duties and the conditions of their service; and

(c) to take disciplinary action against teachers and other employees of the private school.”

7. In this case the petitioner has involved in a criminal case and she was arrested. This was intimated by the Inspector of Police, District Crime Branch, by his letter dated 03.11.2021 to the 3rd respondent. Based on this, the Block Educational Officer vide his proceedings dated 03.03.2022 directed the school committee to initiate disciplinary proceedings as against the petitioner. Accordingly the school committee was convened on 18.03.2022 and a resolution was passed to take disciplinary proceedings against the petitioner by appointing enquiry officer. A copy of the resolution dated 18.03.2022 is placed before this Court. By referring to the resolution the learned Counsel for the petitioner has taken a plea that there is no specific resolution authorising the Secretary to issue charge memo. This impugned charge memo was issued only pursuant to the resolution passed by the school committee based on the directions of the Block Educational Officer. Therefore, the



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petitioner's plea cannot be accepted. Accordingly this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

27.11.2024

Internet : Yes / No

DSK

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B.PUGALENDHI.J.,

DSK

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