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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) Nos.14030, 14031 & 17027 of 2021

and

W.M.P.(MD) No.11023 of 2021

W.P.(MD) No.14030 of 2021:

Kshatriya Nadar Girls' Higher
Secondary School
rep.by its Secretary
Kamuthi
Ramanathapuram District

... Petitioner

-vs-

1.The Chief Educational Officer
Ramanathapuram

2.The District Educational Officer
Paramakudi
Ramanathapuram District

3.S.Ariyamala

... Respondents



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the 1st and 2nd respondents to approve the proposal submitted by the petitioner dated 18.01.2021.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.S.Shaji Bino
Special Government Pleader for R1 & R2
Mr.R.Babu Jaganath for R3

W.P.(MD) No.14031 of 2021:

Kshatriya Nadar Girls' Higher
Secondary School
rep.by its Secretary
Kamuthi
Ramanathapuram District

... Petitioner

-vs-

1.The Chief Educational Officer
Ramanathapuram

2.The District Educational Officer
Paramakudi
Ramanathapuram District

3.S.Ariyamala

... Respondents



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.6173/A2/2020 dated 27.07.2021 and quash the same.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.S.Shaji Bino
Special Government Pleader for R1 & R2
Mr.R.Babu Jaganath for R3

W.P.(MD) No.17027 of 2021:

G.Aariyamala

... Petitioner

-vs-

- 1.The Chief Education Officer
Ramanathapuram
Ramanathapuram District
- 2.The District Education Officer
Paramakudi
Ramanathapuram District
- 3.The Secretary
Kshatriya Nadar Girls Higher
Secondary School
Kamuthi, Ramanathapuram District



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

4.The Head Master
Kshatriya Nadar Girls Higher
Secondary School
Kamuthi
Ramanathapuram District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to record the presence of the petitioner by getting signatures in the attendance in register from 05.03.2021 and also to implement the order passed in the proceedings of the respondent which directs the petitioner to continue her duty and further to direct the respondents 1 and 2 to take legal action as against the respondents 3 and 4 for their coercion and illegal activity as against the petitioner, by considering the representation of the petitioner dated 04.08.2021.

For Petitioner : Mr.R.Babu Jaganath

For Respondents : Mr.S.Shaji Bino
Special Government Pleader for R1 & R2
Mr.V.Panneer Selvam for R3 & R4



WEB COPY

W.P.(MD) Nos.14030, 14031 & 17027 of 2021

COMMON ORDER

W.P.(MD) No.17027 of 2021 has been filed by one G.Aariyamala for a mandamus seeking for a direction to the respondents in the said writ petition to allow her in the respondent – School and allow her to sign the attendance register from 05.03.2021 onwards.

2. The grievance of G.Aariyamala is that even though she was duly appointed in the respondent – School as a Physical Education Teacher by an appointment order dated 04.03.2019, she has not been allowed to sign the attendance register from 05.03.2021 onwards by the respondent – School. G.Aariyamala claims that she has been working in the respondent – School ever since 2010 and her services were regularized only on 04.03.2019 through the appointment order. She claims that on account of registration of an F.I.R. against the School Management, vindictive action has been taken against her by not permitting her to sign the attendance register and allowing her to work as a Physical Education Teacher in the respondent – School. Under those circumstances, G.Aariyamala has filed W.P.(MD) No.17027 of 2021 seeking for the relief as stated supra.



WEB COPY

W.P.(MD) Nos.14030, 14031 & 17027 of 2021

3. W.P.(MD) No.14030 of 2021 has been filed by the School Management (Kshatriya Nadar Girls Higher Secondary School) also for a mandamus seeking for a direction to the respondents 1 & 2 in the said writ petition to approve the proposal submitted by them dated 18.01.2021. The said proposal was sent by the School Management for approval pursuant to a resolution passed by the School Management on 12.01.2021 not to declare the probation of G.Aariyamala as a Physical Education Teacher on account of her unsatisfactory performance.

4. W.P.(MD) No.14031 of 2021 has been filed by the School Management (Kshatriya Nadar Girls Higher Secondary School) once again challenging the impugned order dated 27.07.2021 passed by the first respondent in the said writ petition, under which, the School Management has been directed to permit G.Aariyamala in service of the third respondent – School.

5. According to the School Management, without passing final orders on the School Management's proposal dated 18.01.2021, referred to supra, the question of directing the School Management to permit



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

G.Aariyamala to work in the respondent – School does not arise. According to the School Management, the impugned order dated 27.07.2021 is arbitrary and illegal.

6. Since the issues involved in all these writ petitions arise out of the same cause of action, these writ petitions are disposed of by this common order.

7. The following are the undisputed facts:

- (a) G.Aariyamala has been working in the respondent – School even prior to the issuance of the appointment order dated 04.03.2019 as a management staff.
- (b) Only based on the proposal sent by the School Management, G.Aariyamala was duly appointed as a Physical Education Teacher through the appointment order dated 04.03.2019.
- (c) The probation of G.Aariyamala was not declared by the School Management.



WEB COPY



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

- (d) Before the School Management passed a resolution recording the unsatisfactory performance of G.Aariyamala through the resolution dated 12.01.2021, the School Management did not issue any show cause notice to G.Aariyamala informing about her unsatisfactory performance and the School Management's proposal proposing to terminate her services, in case she does not rectify her performance.
- (e) The School Management has addressed the proposal dated 18.01.2021 seeking approval for the resolution passed by them on 12.01.2021, under which they have decided not to declare the probation for G.Aariyamala, only to the Chief Educational Officer and as seen from the same, a copy of the resolution has not been sent to G.Aariyamala.



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

8. However, it is the case of G.Aariyamala that she was never informed by the School Management about the proposal not to declare her probation. She claims that she has been duly appointed as a Physical Education Teacher, after getting duly approval from the Chief Educational Officer based on the proposal sent by the School Management and the appointment order dated 04.03.2019 also does not provide for any conditions, which enable the School Management not to declare the probation without intimating G.Aariyamala without assigning any reasons. According to G.Aariyamala, arbitrarily and illegally, she has been prevented from signing the attendance register in the School from 05.03.2021 onwards and she has not been allowed to perform her work as a Physical Education Teacher from 05.03.2021 onwards. According to her, only due to the fact that an F.I.R. was registered against the School Management, vindictively she has not been allowed to sign the attendance register and do her duty as a Physical Education Teacher in the respondent – School.

9. On the other hand, learned counsel appearing for the School Management would submit that unless and until the proposal submitted by the School Management dated 18.01.2021 seeking approval for the resolution



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

passed by the School Management on 12.01.2021 not to declare the probation in favour of G.Aariyamala is considered by the official respondents, the question of permitting G.Aariyamala to work in the respondent – School, based on her appointment order, does not arise. He would submit that the resolution dated 12.01.2021 came to be passed only due to the unsatisfactory performance of G.Aariyamala and only due to her unauthorized absence. He would also submit that subsequent to the passing of the resolution on 12.01.2021 by the School Management not to declare the probation for G.Aariyamala, she had absented herself from duty in the respondent – School from 03.02.2021.

10. Learned counsel appearing for the School Management would also submit that as per Rule 15-A of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, probation can be declared only after a period of two years from the date when a teacher was appointed. According to him, there is no necessity to issue any show cause notice to G.Aariyamala and to hold an enquiry before deciding not to declare probation for G.Aariyamala. In support of his contentions, learned counsel appearing for the School Management drew the attention of this Court to the following authorities:



WEB COPY



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

- (a) **Kunwar Arun Kumar vs. U.P.Hill Electronics Corpn. Ltd.** reported in **(1997) 2 SCC 191**;
- (b) **Oil and Natural Gas Commission vs. MD.S.Iskender Ali**, reported in **(1980) 3 SCC 428**; and
- (c) **Aryabhatta Research Institute of Observational Sciences vs. Devendra Joshi**, reported in **(2018) 15 SCC 73**.

11. Relying upon the aforesaid decisions, learned counsel appearing for the School Management would submit that the resolution passed by the School Management deciding not to declare the probation for G.Aariyamala and the approval sought for from the official respondents for the said resolution is correct and it is only in accordance with law. He would once again reiterate that as seen from the aforesaid decisions, there is no necessity for the School Management to hold an enquiry before deciding not to declare the probation for G.Aariyamala.



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

12. Learned Special Government Pleader appearing for the official respondents also drew the attention of this Court to the proceedings of the School Management dated 26.03.2021, which was sent to the Chief Educational Officer, and would submit that as seen from the said proceedings, the School Management has raised several allegations against G.Aariyamala, which includes misappropriation of funds of the respondent – School and also issuance of a charge memo in the disciplinary proceedings initiated against her. He would submit that even though serious allegations have been levelled against G.Aariyamala, they are not part of the records produced by the School Management or by G.Aariyamala before this Court.

13. However, learned counsel appearing for G.Aariyamala would reiterate the contents of the affidavit filed by G.Aariyamala before this Court in W.P.(MD) No.17027 of 2021. He would once again reiterate that only due to the fact that an F.I.R., was registered against the School Management, by way of vindictiveness, G.Aariyamala has been prevented from doing her duty as a Physical Education Teacher in the respondent – School from 05.03.2021 onwards. He would also submit that G.Aariyamala has not been paid salary from then onwards. It is also contended by him that prior to the passing of



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

the resolution dated 12.01.2021 by the School Management, G.Aariyamala was not informed by them that her performance was unsatisfactory. Therefore, he would submit that the resolution passed by the School Management on 12.01.2021 is arbitrary and illegal and therefore, the proposal submitted by the School Management to the Chief Educational Officer requesting him to approve the resolution dated 12.01.2021 has to be rejected.

14. The point for consideration in these writ petitions is whether the School Management before deciding not to declare the probation to any teacher is required to intimate the concerned teacher about his / her irregularities or unsatisfactory performance to enable him / her to mend his / her ways and work satisfactorily.

15. Learned counsel appearing for the School Management, by relying upon the aforesaid decisions, namely, **(1997) 2 SCC 191**, **(1980) 3 SCC 428** and **(2018) 15 SCC 73**, would submit that the School Management is empowered to pass a resolution of the nature dated 12.01.2021, under which the School Management has decided not to declare the probation for G.Aariyamala.



WEB COPY

W.P.(MD) Nos.14030, 14031 & 17027 of 2021

16. However, as seen from the aforesaid decisions, referred to supra, in all those decisions, there was a finding rendered by the School Management, which was recorded in the school records that the employee, during the probation period, did not work and perform his / her work duties satisfactorily.

17. In the first decision relied upon by the learned counsel appearing for the School Management reported in **(1997) 2 SCC 191**, it was found that the candidate is not suitable to remain in service, in view of there being a record to show the unsatisfactory performance of the candidate during the period of probation. Only based on the objective assessment of the candidate, which was unsatisfactory, probation was not declared for the said candidate.

18. In the second decision relied upon by the learned counsel appearing for the School Management reported in **(1980) 3 SCC 428**, even in that decision, the facts of the said case are different from the case on hand. In that decision, the confidential roll reflecting the assessment of the work of the employee during the probation period from December 31, 1965 to December



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

30, 1966, clearly revealed that the employee was careless and lacking in sense of responsibility. But, whereas, in the case on hand, no record has been placed by the School Management prior to the passing of the resolution on 12.01.2021, which discloses that G.Aariyamala was working unsatisfactorily in the respondent – School and was not doing her work properly.

19. Even in the third decision relied upon by the learned counsel appearing for the School Management reported in **(2018) 15 SCC 73**, the facts are different. In that case as well, the employee was asked to submit his explanation with regard to the shortcomings in the discharge of the duties by the Management and since the employee did not mend his ways, probation was not declared by the Management.

20. Even though, it is settled law that insofar as declaration of probation is concerned in respect of misconduct of an employee, there is no necessity to conduct disciplinary proceedings by holding an in-depth enquiry, but, necessarily, the employee must be given an opportunity to mend his / her ways, which satisfies his / her work requirements as per the appointment order. Only if, despite the said warning given by the Management, the employee continues to work unsatisfactorily, the Management can take a



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

decision not to declare probation for the employee concerned.

21. However, in the case on hand, G.Aariyamala has not been informed about her unsatisfactory performance by the School Management and she has not been granted any opportunity to mend her ways to satisfy the requirements of her work as a Physical Education Teacher. G.Aariyamala also denies categorically before this Court that her work as a Physical Education Teacher in the respondent – School is unsatisfactory.

22. Therefore, before taking a decision not to declare the probation of an employee, the Management should inform the employee in writing about his / her shortcomings well before the expiry of the original probation period to enable him / her to take steps for self-improvement. The final decision, whether to confirm, extend or discharge the employee, must be communicated to him / her in writing within a specific time frame. Before a decision is made to discharge a probationer due to unsuitability, he / her must generally be given a reasonable opportunity of showing cause against the proposed action. An opportunity must be given to him / her to mend his / her ways as suitable for the job he / she is holding.



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

23. G.Aariyamala contends before this Court that she has been working dutifully as a Physical Education Teacher in the respondent – School ever since 2010 and even after the issuance of the appointment order dated 04.03.2019. She has also stated that only due to the fact that an F.I.R., has been registered against the School Management, by way of vindictiveness, she has not been allowed to sign the attendance register in the respondent – School from 05.03.2021 onwards. The said statement of G.Aariyamala has to be believed by this Court, in view of the fact that there is no record produced by the School Management before this Court that prior to the passing of the resolution on 12.01.2021, under which the School Management has decided not to declare the probation of G.Aariyamala, there was any communication sent by them to G.Aariyamala about her unsatisfactory performance. Infact, in the proceedings sent by the School Management to the Chief Educational Officer on 26.03.2021, which was relied upon by the learned Special Government Pleader appearing for the official respondents, there were several irregularities pointed out by the School Management against G.Aariyamala, which includes misappropriation of funds of the respondent – School. Certainly, those allegations are very serious in nature and definitely, a stigma



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

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will be caused on G.Aariyamala, if those allegations are found to be false. But, surprisingly, without intimating G.Aariyamala about her improper conduct, the School Management has passed the resolution approving their decision not to declare probation for G.Aariyamala, which is arbitrary and illegal, as it is not in accordance with law since due procedure established under law for not declaring probation to an employee has not been followed.

24. From the above observations, the following findings are recorded by this Court:

- (a) The School Management has acted arbitrarily and illegally by not putting on notice G.Aariyamala the details of her unsatisfactory performance in the respondent – School while she was working as a Physical Education Teacher.
- (b) The copy of the resolution dated 12.01.2021 passed by the School Management deciding not to declare the probation for G.Aariyamala was not marked to her. Even though the School



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

Management contends that a copy of the same was also given to G.Aariyamala, this Court has to necessarily believe the statement of G.Aariyamala that she never received a copy of the resolution dated 12.01.2021, through which, the School Management has decided not to declare her probation.

(c) There is no necessity for the Management to conduct an in-depth enquiry as it is being done to permanent employees. However, necessarily, the School Management before passing the resolution dated 12.01.2021 ought to have informed in advance G.Aariyamala about her unsatisfactory performance and necessarily, they should have given her time to mend her ways, which they have failed to do so, as seen from the records placed on record before this Court.

(d) A copy of the resolution, dated 12.01.2021,



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

referred to supra, has also not been sent to G.Aariyamala, as there is no evidence placed on record that G.Aariyamala had received the said resolution.

- (e) G.Aariyamala has been working in the respondent - School even prior to the issuance of the appointment order dated 04.03.2019. G.Aariyamala claims that she has been working in the respondent – School from 2010 onwards. Even though there is no proof for the same, but, however, the School Management themselves admit that G.Aariyamala was working in the School even prior to the issuance of the appointment order dated 04.03.2019 as a management staff.
- (f) When G.Aariyamala has been appointed legally through the appointment order dated 04.03.2019, based on the proposal submitted by the very same School Management and approved



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

by the official respondents, only by following due procedure and in accordance with law, the School Management can pass final orders not to declare the probation for G.Aariyamala.

25. In view of the above observations made by this Court based on the records placed before this Court, this Court is of the considered view that the School Management has not passed the resolution dated 12.01.2021 by following the due procedure contemplated under law, as they have decided not to declare the probation for G.Aariyamala, without even intimating her about the nature of her unsatisfactory performance and also without giving any opportunity for her to mend her ways. Since the resolution dated 12.01.2021, passed by the School Management is arbitrary and illegal, the question of entertaining the writ petitions filed by the School Management in W.P.(MD) No.14030 & 14031 of 2021 does not arise, as the said writ petitions do not deserve any merit and the same, therefore, have to be rejected.

26. However, on the other hand, necessarily, since G.Aariyamala was duly appointed as a Physical Education Teacher by the School



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

Management pursuant to the appointment order dated 04.03.2019, she cannot be prevented from signing the attendance register and cannot be prevented from performing her work as a Physical Education Teacher in the respondent – School. The School Management has arbitrarily and illegally refused permission for G.Aariyamala to sign the attendance register and do her regular duties in the respondent – School as a Physical Education Teacher. It cannot also be said that the resolution passed by the School Management on 12.01.2021 will not cause stigma on G.Aariyamala. The proceedings sent by the School Management on 26.03.2021 to the Chief Educational Officer makes serious allegations against the said G.Aariyamala, which includes misappropriation of funds of the School Management and infact, it also reveals that a charge memo was issued on 25.10.2020 to G.Aariyamala. Even though the said charge memo was issued even prior to the passing of the resolution dated 12.01.2021, the said charge memo has also not been placed on record before this Court by the School Management for the reasons best known to them. This Court also believes the statement made by G.Aariyamala that only due to the fact that an F.I.R. was registered against the School Management, by way of vindictiveness, the School Management is preventing her from signing the attendance register and doing



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

WEB COPY

her work as a Physical Education Teacher. The said statement has to be believed due to the observations made by this Court in the aforementioned paragraphs. In view of the same, the relief sought for by G.Aariyamala in the writ petition filed by her in W.P.(MD) No.17027 of 2021 has to be granted and the said writ petition has to be allowed.

27. For the foregoing reasons,

- (a) The writ petitions filed by the School Management in W.P.(MD) Nos.14030 & 14031 of 2021 are dismissed.
- (b) The writ petition filed by G.Aariyamala in W.P. (MD) No.17027 of 2021 is allowed as prayed for by directing the respondents 3 & 4 in the said writ petition to permit G.Aariyamala to sign the attendance register and allow her to perform her duty as a Physical Education Teacher in the respondent – School without causing any hindrance and by directing the respondents 3 & 4 in the said writ petition to pay arrears of salary



WEB COPY



W.P.(MD) Nos.14030, 14031 & 17027 of 2021

to G.Aariyamala from 04.03.2019 onwards, if not already paid, within a period of four weeks from the date of receipt of a copy of this order and continue to pay her salary in future as well. This direction is issued to the respondents 3 & 4 in the said writ petition to pay arrears of salary, only due to the arbitrariness and illegality committed by them. On compliance of the said direction, the respondents 3 & 4 are granted liberty to send bills along with the attendance register to the official respondents seeking for reimbursement of the arrears of salary paid to G.Aariyamala.

(c) No costs. Consequently, connected miscellaneous petition is closed.

12.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

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To:

- 1.The Chief Educational Officer,
Ramanathapuram.
- 2.The District Educational Officer,
Paramakudi,
Ramanathapuram District.



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W.P.(MD) Nos.14030, 14031 & 17027 of 2021

ABDUL QUDDHOSE, J.

krk

W.P.(MD) Nos.14030, 14031 & 17027
of 2021
and
W.M.P.(MD) No.11023 of 2021

12.11.2025