



Rev.Aplc(MD).No.43 of 2018,
LPA.(MD).No.1 of 2017 and WP(MD).No.22943 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.11.2025

PRONOUNCED ON : 18.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Rev.Aplc(MD).No.43 of 2018,
LPA.(MD).No.1 of 2017 and WP(MD).No.22943 of 2016
and CMP(MD).No.3749 of 2018 and
WMP(MD).Nos.234 of 2017 and 16416 of 2016

Rev.Aplc(MD).No.43 of 2018:

Mr.M.Parthasarathi Selva GanesanPetitioner/3rd Party

Vs

1.P.L.W.A.Higher Secondary School Committee
Vickramansingapuram 627 425
Tirunelveli District
Rep.by its Secretary

2.Mr.Paneerselvam, Head Master
P.L.W.A.Higher Secondary School
Vickramansingapuram 627 425
Tirunelveli District

3.A.S.Edwin Sudhan

4.The Chief Educational Officer
Tirunelveli
Tirunelveli District



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5.The District Educational Officer
Cheranmahadevi
Tirunelveli District

....Respondents/Respondents

Prayer in Rev.Aplc(MD).No.43 of 2018: The Review application has been filed under Section 114 of C.P.C r/w Order 47 Rule 1 & 2 of C.P.C to review the order made in WA(MD).No.1274 of 2014 dated 29.04.2016 passed by this Court.

L.P.A(MD).No.1 of 2017

A.S.Edwin Suthan

....Petitioner/Petitioner

Vs

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

2.A.Jacob
The District Educational Officer
Cheranmahadevi at Tirunelveli
Tirunelveli 627 001

3.A.Baskaran
The Secretary
P.L.W.A.Higher Secondary School Committee
Vicktramasingapuram 627 425
Tirunelveli District

.....Respondents/Respondents



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Prayer in L.P.A.(MD).No.1 of 2017 : The Letters Patent Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 14.12.2016 in Contempt Petition (MD).No.750 of 2015 on the file of this Court.

WP(MD).No.22943 of 2016:

Mr.M.Parthasarathi Selva Ganesan

....Petitioner

Vs

1.The Chief Educational Officer
Office of the Chief Educational Officer
Tirunelveli
Tirunelveli District

2.The District Educational Officer
Office of the District Educational Officer
Cheranmahadevi at Tirunelveli
Tirunelveli District

3.The Secretary
P.L.W.A.Higher Secondary School Committee
Vickramasingapuram
Ambasamudram (Taluk)
Tirunelveli District 627 425

4.The Headmaster
P.L.W.A.Higher Secondary School
Vickramasingapuram
Ambasamudram (Taluk)
Tirunelveli District 627 425

5.Mr.A.S.Edwin Sudhan

....Respondents

WP(MD).No.22943 of 2016: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the



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respondents 1 to 4 from relieving the petitioner from service in the post of Physical Education Teacher at P.L.W.A.Higher Secondary School, Vickramasingapuram, Ambasamudram Taluk, Tirunelveli District without resorting to the provision under Section 22 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rule 17 of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974.

Rev.Aplc(MD).No.43 of 2018:

For Appellant	:Mr.V.Meenakshi Sundaram for Mr.C.Saravanakumar
For Respondents	:Mr.M.P.Senthil for R1 & R2 :Mr.T.S.R.Venkataramana Senior Counsel for M/s.M.Shema Daniel for R3 :Mr.T.Amjadkhan Government Advocate for R4 & R5

LPA(MD).No.1 of 2017

For Appellant	:Mr.T.S.R.Venkataramana Senior Counsel for M/s.Shema Daniel
For Respondents	:Mr.T.Amjadkhan Government Advocate for R1 & R2 :Mr.M.P.Senthil for R3

WP(MD).No.22943 of 2016:

For Petitioner	:Mr.V.Meenakshi Sundaram for Mr.C.Saravanakumar
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For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 & R2

:Mr.M.P.Senthil for R3 & R4

:Mr.T.S.R.Venkataramana
Senior Counsel
for M/s.M.Shema Daniel for R5

COMMON JUDGMENT

(Made by **R.VIJAYAKUMAR,J.**)

Since the issues involved in all these three proceedings are intertwined, they are tagged together and a common order is being passed.

(A).Facts leading to the filing of this writ petition are as follows:

2.One Mr.A.S.Edwin Suthan was appointed as a Physical Education Teacher on 29.11.2008 in the retirement vacancy of Mr.S.Ganesamoorthy in Papanasam Labour Welfare Association Higher Secondary School, Vickramansingapuram. Based on certain complaints as against the Physical Education Teacher, a memo was issued to him on 02.02.2009. Based upon the enquiry, the said A.S.Edwin Suthan was issued with a termination order by the School Management on 20.02.2009. Since the said A.S.Edwin Suthan was in his probation period, the School Committee had passed a resolution not to extend his services and terminated him on 20.02.2009.



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3.Challenging the termination order, the said A.S.Edwin Suthan had preferred WP(MD).No.1849 of 2009 and sought for a direction to reinstate him as a Physical Education Teacher. While the writ petition was pending, one Mr.M.Parthasarathi Selva Ganesan was appointed as a Physical Education Teacher in the vacancy caused by retirement of Mr.S.Ganesamoorthy by way of proceedings dated 05.10.2009. The appointment of Parthasarathi Selva Ganesan was approved by the Educational Authority on 05.11.2012.

4.When WP(MD).No.1849 of 2009 came up for final hearing, the writ Court was pleased to allow the writ petition. In the order, it was observed that the appointment of Mr.Parthasarathi Selva Ganesan pending writ petition is not valid and it is illegal and therefore, the Education Department was directed to take a decision to withdraw the approval granted to his appointment after affording sufficient opportunity. This order was put to challenge by the management in WA(MD).No.1274 of 2014.

5.Pending writ appeal, an interim direction was issued to the School Management on 20.01.2015 directing the management to comply with the orders of the writ Court. The writ appeal came up for final hearing on 29.04.2016. After extracting the order of the writ Court, the writ appellate Court did not find any reason to interfere in the order of the writ Court and



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dismissed the writ appeal. The writ appeal order was not put to challenge by the School Management.

6. Seeking to review the order in WA(MD).No.1274 of 2014, the second appointee namely Mr.Parthasarathi Selva Ganesan had preferred the review application in Rev.Aplc(MD).No.43 of 2018. He has also preferred a Special Leave Petition before the Hon'ble Supreme Court challenging the order dated 29.04.2016 made in WA(MD).No.1274 of 2014. The Hon'ble Supreme Court was pleased to dismiss the SLP on 10.02.2017 on the ground that Mr.Parthasarathi Selva Ganesan has already taken a remedy for filing a review in the High Court seeking the same relief. This review petition in Rev.Aplc(MD).No.43 of 2018 is listed before us.

7. The said Mr.A.S.Edwin Suthan had filed Cont.Pet(MD).No.750 of 2015 alleging violation of the order dated 28.08.2014 made in WP(MD).No. 1849 of 2009 wherein the writ Court had directed the reinstatement of Mr.A.S.Edwin Suthan. This contempt petition came to be closed by the learned Single Judge of this Court on 14.12.2016 primarily on the ground that the Division Bench in WA(MD).No.1274 of 2014 had dismissed the appeal on 29.04.2016 and therefore, in view of doctrine of merger, the contempt petition has to be preferred only before the Hon'ble Division Bench. Challenging the said order, Mr.A.S.Edwin Suthan had preferred



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LPA(MD).No.1 of 2017 which is listed before us.

8.The second appointee namely MR.Parthasarathi Selva Ganesan has filed WP(MD).No.22943 of 2016 seeking a mandamus forbearing the official respondents and the School Management from relieving him from the post of Physical Education Teacher without resorting to the provision Section 22 of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rule 17 of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974. At the time of admission, interim direction was granted as against the officials respondent and the School Management on 30.11.2016 from relieving the second appointee namely Mr.Parthasarathi Selva Ganesan from the post of Physical Education Teacher. This writ petition is also listed before us.

9.The termination of the first appointee namely Mr.A.S.Edwin Suthan and legality of the appointment of Mr.Parthasarathi Selva Ganesan are interconnected and therefore, all the three proceedings are tagged together and a common order is being passed.

(B).Submissions made by the counsels are as follows:

10.The learned Senior Counsel for the appellants in LPA(MD).No.1 of 2017 submitted that the writ Court had set aside the order of termination of Mr.A.S.Edwin Suthan and the said order has been confirmed in the writ appeal. The S.L.P preferred by the second appointee has been dismissed.



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Even though, the order is confirmed by the appellate Court, for violation of the order passed by the original authority, a contempt petition would lie only before the original authority. Only in cases where the appellate authority has modified the order, the contempt petition would lie before the appellate Court. In the present case, the order of the writ Court has been confirmed by the Division Bench without any modification whatsoever. In such circumstances, the contempt petition would lie only before the writ Court which had set aside the order of termination of A.S.Edwin Suthan.

11.The learned Counsel had further submitted that the doctrine of merger that was pointed out by the learned Single Judge while passing the order in Cont.Pet(MD).No.750 of 2015 was rendered in the light of the power of the High Court to entertain the review application, after SLP was dismissed by the Hon'ble Supreme Court. Therefore, the said judgment is not applicable to the facts of the present case. Hence, he prayed for allowing the Letters Patent Appeal and to punish the School Management for violating the order of the writ Court which was confirmed by the Hon'ble Division Bench.

12.Per contra, learned counsel appearing for the respondents contended that when the Court refused to entertain the contempt petition and closed it, an appeal would not lie under Section 19 of the Contempt of Courts Act. Therefore, whether it is a contempt appeal or Letters Patent appeal, the same



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is not maintainable, in view of the fact that the writ Court has not punished the contemnor or passed any direction on merits. In such circumstances, the Letters Patent Appeal itself is not maintainable.

13.The learned Senior Counsel appearing for the review applicant (Parthasarathi Selva Ganesan) in Rev.Applc(MD).No.43 of 2018 submitted that the review applicant was appointed on 29.03.2009 in the retirement of one Mr.S.Ganesamoorthy. He was not appointed in the vacancy created by the termination order of Mr.A.S.Edwin Suthan. Even though, the appointment and approval of the review applicant was made during the pendency of WP(MD).No.1849 of 2009 and it was brought to the notice of the writ Court, neither the Management nor the writ petitioner therein had chosen to implead the second appointee. Without hearing the second appointee, the writ Court has proceeded to hold that the appointment and approval of the second appointee are illegal.

14.In the writ appeal filed by the Management, the writ appellate Court had extracted the findings of the writ Court and proceeded to confirm the order of the writ Court without assigning any independent reason. He had further submitted that the second appointee was not impleaded even before the writ appellate Court. Therefore, the review applicant was constrained to file SLP.(C)No.2819 of 2017 before the Hon'ble Supreme Court. However,



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the S.L.P was dismissed on the sole ground that his client had already filed a review petition to review the order of the Division Bench in WA(MD).No. 1274 of 2014. According to him, the observation made by the writ Court and confirmed by the appellate Court with regard to the illegality of his appointment and approval has been made behind his back and therefore, they are liable to be set aside.

15.The learned counsel appearing for the review applicant had further submitted that the writ Court allowed the writ petition filed by Mr.A.S.Edwin Suthan primarily on the ground that without seeking approval from the authority, he has been terminated by the Management. According to him, it was not brought to the notice of the writ Court that the appointment was not yet approved by the authority. He had not completed his probation period. Due to his unsatisfactory service, his probation was not extended and he was terminated. Only for a candidate whose appointment has been approved by the authority, the question of following the procedure as contemplated under the Tamil Nadu Recognized Private Schools (Regulation) Act would apply. The said A.S.Edwin Suthan right from the date of his appointment till the date of his termination, continued to be a management staff and received salary only from the Management. Therefore, the writ Court as well as the writ appellate Court were not right in arriving at a finding that the termination



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is illegal.

16.The learned counsel appearing for the review applicant further submitted that after termination of Mr.A.S.Edwin Suthan, the review applicant was not appointed in his place. On the other hand, the review applicant was appointed in the retirement vacancy of Mr.S.Ganesamoorthy. Therefore, it is clear that A.S.Edwin Suthan's appointment in the place of S.Ganesamoorthy continue to be in the capacity of a management staff till his termination. He had further submitted that at no point of time, the appointment of Edwin Suthan was approved by the educational authority. Therefore, Mr.A.S.Edwin Suthan cannot claim any direction under the provisions of Tamil Nadu Recognized Private Schools (Regulation) Act. He had further submitted that the review applicant's appointment order or his approval were never put to challenge by Mr.A.S.Edwin Suthan. Incidentally, the findings have rendered by the writ Court relating to illegality and approval of the review applicant. These observations have been made behind the back of the review applicant. When the right of A.S.Edwin Suthan is compared to the right of Parthasarathi Selva Ganesan, it would be clear that Parthasarathi Selva Ganesan's appointment has already been approved by the authority and he is working as an approved candidate for the past of 15 years.



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17.The learned counsel for the review applicant had further submitted that pursuant to the interim direction of this Court on 21.08.2019, Mr.A.S.Edwin Suthan was appointed on consolidated pay. Again complaints were received as against him and a show cause notice was issued on the allegation of sexual harassment. The show cause notice was put to challenge by the High Court in WP(MD).No.5547 of 2013 and it was disposed on 31.03.2023 with a direction to proceed with the enquiry. Based upon the enquiry dated 25.09.2023, A.S.Edwin Suthan has again been removed by the School Management on 01.04.2024. Challenging his second removal, he has preferred WP(MD).No.16503 of 2014 and the same is pending. No interim orders have been granted. Therefore, according to the review applicant, as on today, Mr.A.S.Edwin Suthan is not in service. Therefore, he cannot challenge or disturb the services of Mr.Parthasarathi Selva Ganesan whose appointment and approval have not been challenged at any point of time.

18.The learned counsel for the review applicant had further submitted that the writ Court as well as the appellate Court have not considered the fact that Mr.A.S.Edwin Suthan's appointment was never approved by the authority and therefore, his termination during the probationary period would not attract the provisions of Tamil Nadu Recognized Private Schools (Regulation) Act. Hence, he prayed for allowing the review application.



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19.Per contra, the learned Senior Counsel appearing for the private respondent in review petition submitted that the very appointment of Mr.Parthasarathi Selva Ganesan during the pendency of WP(MD).No.1849 of 2009 is illegal. The review applicant was very well aware of the pendency of the writ petition as well as the writ appeal. He had not chosen to himself impleaded, now he cannot complain that he was not heard. He had further submitted that the School Management was very adamant in not implementing the orders of the writ Court. In fact, when the writ appeal filed by the Management came up for admission, the Hon'ble Division Bench on 20.01.2015 has issued an interim direction to reinstate Mr.A.S.Edwin Suthan. The order was not complied with and the writ appeal filed by the Management was dismissed on 29.04.2016, even thereafter Mr.A.S.Edwin Suthan was not reinstated.

20.Only when the Review Application and Letter Patents Appeal No.1 of 2017 was tagged together and came up before the Division Bench, the Division Bench has issued an order on 21.08.2019 directing the management to accommodate Mr.A.S.Edwin Suthan on a consolidated pay. Only thereafter Mr.A.S.Edwin Suthan was appointed and was reinstated on a consolidated pay. Even thereafter, on false allegations, a show cause notice was issued. Again the said A.S.Edwin Suthan was terminated on 01.04.2024 which is



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challenged in WP(MD).No.16503 of 2024.

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21. According to the learned Senior Counsel, the Management has never chosen to comply with the order of this Court and therefore, the review application should not be entertained. He had further submitted that when the writ appeal preferred by the Management has been dismissed, they cannot set up the second appointee to file a Review Application in order to reargue the case. Hence, he prayed for dismissal of the Review Application.

22. The learned counsel appearing for the writ petitioner in WP(MD).No.22943 of 2016 had submitted that based upon the order of the writ Court in WP(MD).No.1849 of 2009 dated 11.03.2009, a show cause notice was issued to the School Management by the educational authority seeking for explanation why the approval granted to Mr.Parthasarathi Selva Ganesan should not be cancelled. A reply was sent by the Management on 06.05.2016. After being satisfied with the said reply, the authorities have not initiated any further action. However, after dismissal of the writ appeal filed by the management, the management issued a show cause notice to the writ petitioner on 24.08.2018 why his appointment cannot be cancelled. Therefore, the petitioner was constrained to file WP(MD).No.22943 of 2016 seeking a mandamus directing the authorities not to relieve him without following the provisions of Tamil Nadu Recognized Private Schools



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(Regulation)Act.

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23. According to the learned counsel for the writ petitioner, when the review application filed by him in Rev.Aplc(MD).No.43 of 2018 is pending, the authorities cannot proceed to implement the order of the writ Court or the writ appellate Court. He had further submitted that the authorities or the School Management can never terminate the services of the writ petitioner when there is no allegation of misconduct. Even if there is an allegation of misconduct, the procedure as contemplated under Tamil Nadu Recognized Private Schools (Regulation) Act, has to be strictly followed in view of the fact that his appointment has already been approved by the authorities.

24. The learned counsel for the writ petitioner further submitted that the appointed of Mr.A.S.Edwin Suthan was initially appointed and later terminated by the management. The termination has been set aside and confirmed in the writ appeal. The writ appeal order was challenged by him before the Hon'ble Supreme Court which has directed him to pursue his remedy by filing the review application in the writ appeal.

25. That apart, this Court in an interim order dated 21.08.2019 had directed the management and the educational authority to accommodate Mr.A.S.Edwin Suthan only on a consolidated pay. Therefore, the petitioner's service which were already approved by the authorities cannot be disturbed



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by way of issuing some show cause notice. Hence, he prayed for allowing the writ petition.

26.Per contra, the learned Senior Counsel appearing for the private respondents submitted that the petitioner's appointment and approval are illegal as per order of the writ Court in WP(MD).No.1849 of 2019 which was confirmed in the writ appeal. When the Hon'ble Division Bench has arrived at a finding that the approval of the writ petitioner is illegal, the issuance of show cause notice either by the authorities or by the School Management to cancel the appointment of Mr.Parthasarathi Selva Ganesan cannot be found fault with.

27.The learned Government Advocate appearing for the official respondents submitted that the School has only one sanctioned post of Physical Education Teacher. The appointment of Mr.A.S.Edwin Suthan was not been approved by the authorities. Even before approval, he was terminated by the School Management during his probation period. He had further submitted that the writ petitioner was appointed in the retirement vacancy of Mr.S.Ganesamoorthy and approval was also granted. He had further submitted that Mr.A.S.Edwin Suthan was appointed for the second time under the direction of the Court on consolidated pay. He was terminated for the second time and the second termination has been put to challenge in



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WP(MD).No.16503 of 2024 and the same is pending without any interim order. He had further contended that the show cause notice was issued by the authorities only pursuant to the order of this Court.

28.Heard all the parties and perused the material records.

(C).Analysis:

29.Mr.A.S.Edwin Suthan has been appointed as a Physical Education Teacher on 29.11.2008 subject to the approval of the educational authority. On the allegations of sexual harassment, he has been terminated by the management. After enquiry, he has been terminated on 20.02.2009. The order of termination is extracted as follows:

“In accordance with the School Committee proceedings dated 19.02.2009, the School Committee lost the confidence on you. Hence, we do not require your services any longer.

Your services are, therefore, terminated with effect from the closing hours of today (20.02.2009). In lieu of one month's notice you will get one month's remuneration.”

30.It is not in dispute that as per Rule 15-A of Tamil Nadu Recognized Private Schools (Regulation) Rules 1974 any person appointed should be on a probation for a total period of two years of duty within a continuing period of three years. Therefore, A.S.Edwin Suthan, who was appointed on 29.11.2008 has not yet completed his probation when the order of termination was issued on 20.02.2009.



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31.That apart, his appointment was not approved by the educational authority by that time. Only when a person is terminated on the ground of misconduct, the question of issuing a charge memo and conducting an enquiry would arise. In the present case, A.S.Edwin Suthan's appointment was terminated based upon a School Committee resolution, during his probation period and when the appointment was yet to be approved by the educational authority. Therefore, the findings of the writ Court that the termination of A.S.Edwin Suthan is illegal because the disciplinary proceedings have not been initiated by the School Committee is not legally sustainable. The writ Court has not taken into consideration the fact that the termination order does not reflect any initiation of disciplinary proceedings and it is only based upon the unsatisfactory service of A.S.Edwin Suthan.

32.The writ Court had further found that the prior approval of the educational authority has not been received before terminating A.S.Edwin Suthan. As rightly contended by the learned counsel for the review applicant, when the appointment of Mr.A.S.Edwin Suthan was yet to be approved by the authorities, the question of obtaining prior permission of the authority concerned for his termination would not arise. That apart, the writ Court while setting aside the order of termination of Mr.A.S.Edwin Suthan, has proceeded to hold that the appointment and approval of Mr.Parthasarathi



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Selva Ganesan are illegal and a direction was issued to the educational authorities to recall the same. These observations have been made by the writ Court without impleading Mr.Parthasarathi Selva Ganesan.

33.A perusal of the order passed by the writ appellate Court reveals that the order of the writ Court has been extracted in Paragraph No.8 of the order. In paragraph No.9, the writ appellate Court simply accepted the findings of the writ Court stating that they are in complete agreement with the findings rendered by the writ Court. The grounds raised by the management or the order passed by the educational authorities have not at all been considered. No independent reasons have been assigned.

34.The findings of the writ Court have also been confirmed by the writ appellate Court without impleading the aggrieved party namely Mr.Parthasarathi Selva Ganesan. Therefore, it is clear that the appointment and approval of Mr.Parthasarathi Selva Ganesan having been set aside by the writ Court as well as by the writ appellate Court, behind his back and in clear violation of the principles of natural justice. Therefore, we find that the review application filed by Parthasarathi Selva Ganesan is maintainable. In the order passed in SLP.(C).No.2819 of 2017 dated 10.02.2017 had dismissed the S.L.P on the ground that Parthasarathi Selva Ganesan has to peruse his remedy by way of Review Application in WA(MD).No.1274 of 2014.



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35.The writ Court in WP(MD).No.1849 of 2019 has not taken into consideration the fact that the petitioner therein namely Mr.A.S.Edwin Suthan has been terminated during his probation period only on the ground of loss of confidence and not on the ground of any misconduct. Only if the termination is based upon any misconduct, it should be preceded by disciplinary proceedings. Only then the disciplinary proceedings has to be initiated by the School Committee and granting opportunity to the employee would arise. That apart, A.S.Edwin Suthan's appointment was not yet approved by the authority. The said candidate continued as a management staff during his entire service period. In such circumstances, the writ Court was not right in setting aside the order of termination of Mr.A.S.Edwin Suthan on the above said grounds. The writ appellate Court has simply confirmed the order of the writ Court in WA.(MD).No.1274 of 2014 without assigning any reason whatsoever.

36. Therefore, we are of the considered opinion that the order of the writ appellate Court as well as the writ Court are liable to be set aside. The order dated 29.04.2016 passed in WA(MD).No.1274 of 2014 is hereby set aside and the writ appeal stands allowed.

37.The petitioner in WP(MD).No.1849 of 2009 namely Mr.A.S.Edwin Suthan has filed the contempt petition in Cont.P(MD).No.750 of 2015



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alleging violation of the order of the writ Court dated 28.08.2015. The said contempt petition was closed. Challenging the same, LPA.No.1 of 2017 has been preferred.

38.The Hon'ble Supreme Court in a decision reported in **(2006) 5 SCC 399 (Midnapore Peoples' Co-operative Bank Ltd., and others Vs.Chunilal Nanda and others)** in Paragraph No.11 has held as follows:

“11.The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.



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IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly.”

39.The Hon'ble Supreme Court in a decision reported in **2024 12 SCC 159 (Ajay Kumar Bhalla and others Vs.Prakash Kumar Dixit)** in Paragraph No.12 has held as follows:

“12.Following the decision in Midnappore Peoples' Coop.Bank, it is a settled principle that an appeal under Section 19 lies only against an order imposing punishment for contempt.”



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40. In view of the above said decision of the Hon'ble Supreme Court, we are of the considered opinion that the Letter Patents Appeal preferred as against the closure of the contempt petition, is not maintainable. In the preceding paragraph, this Court has arrived at a finding that Mr.A.S.Edwin Suthan's termination is not based on misconduct but was only during the probation period on the ground of loss of confidence.

41. Paragraph No.14 of the order in WP(MD).No.1849 of 2009, this Court has directed the education department to take a decision to withdraw the approval granted in favour of Mr.Parthasarathi Selva Ganesan after affording sufficient opportunity. Only based upon the said direction, a show cause notice was issued by the department to the School Management on 29.04.2013. A reply has been addressed by the management on 06.05.2013. No further action was taken by the department. Based upon the order in WA(MD).No.1274 of 2014, the management has issued a notice to Mr.Parthasarathi Selva Ganesan on 24.08.2016. Apprehending disturbance to his service, Mr.Parthasarathi Selva Ganesan has filed WP(MD).No.22943 of 2016 and obtained an interim order on 30.11.2016. In the preceding paragraphs, we have already allowed the review application and set aside the order passed in WA(MD).No.1274 of 2014.



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42.Mr.Parthasarathi Selva Ganesan has been appointed on 29.03.2009 not in the termination vacancy of Mr.A.S.Edwin Suthan. He has been appointed in the retirement vacancy of Mr.S.Ganesamoorthy. Mr.Parthasarathi Selva Ganesan's appointment has been approved by the authority on 05.11.2012. So far, the appointment order or the approval order have not been put to challenge by Mr.A.S.Edwin Suthan. When we have already proceeded to allow the review application filed by Parthasarathi Selva Ganesan, the right of the educational department to issue a show cause notice does not survive. Therefore, we are of the considered opinion that the approval cannot be cancelled by mere issuance of show cause notice without following the provisions of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. Therefore, we are inclined to allow the writ petition filed by Mr.Parthasarathi Selva Ganesan in WP(MD).No.22943 of 2016.

(D).Conclusion:

43(a). L.P.A(MD).No.1 of 2017 stands dismissed.

(b). WP(MD).No.22943 of 2016 stands allowed.

(c). The Review Application (MD).No.43 of 2018 stands allowed and the order passed in WA(MD).No.1274 of 2014 on 29.04.2016 is hereby



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set aside and a consequence WA(MD).No.1274 of 2014 stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K.J.,)

(R.V.J.,)

18.12.2025.

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



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To

1. The Chief Educational Officer
Office of the Chief Educational Officer
Tirunelveli
Tirunelveli District

2. The District Educational Officer
Office of the District Educational Officer
Cheranmahadevi at Tirunelveli
Tirunelveli District

3. The Section Officer
V.R. Section
Madurai Bench of Madras High Court
Madurai



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C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.

msa

Pre-delivery Common Judgment made in
Rev.Aplc(MD).No.43 of 2018,
LPA.(MD).No.1 of 2017 and WP(MD).No.22943 of 2016
and CMP(MD).No.3749 of 2018 and
WMP(MD).Nos.234 of 2017 and 16416 of 2016

18.12.2025