



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9499 of 2024
& W.M.P.No.10496 of 2024

A.Thainesan,
S/o. Arokiasamy, Christian,
Working As Physical Director, Petit Seminaire,
Higher Secondary School M.G.Road,
Puducherry. ... Petitioner

Vs.

1. The General Manager-cum-
Arch Bishop Of Pondicherry-Cuddalore Archdiocese,
Arch Bishops House, P.O.Box.No. 193,
No. 206, Cathedral Street,
Puducherry -605 001.

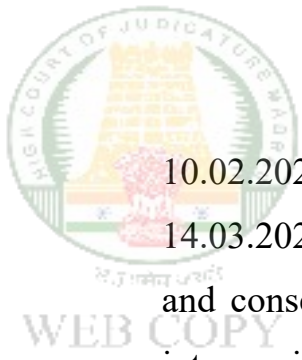
2. The Principal,
Petit Seminaire Higher Secondary School,
M.G. Road, Puducherry.

3. The Director,
Directorate of School Education,
"A" Block, I Floor,
Perunthalaivar Kamaraj Centenary
Educational Complex, 100 ft Road,
Anna Nagar, Puducherry – 605 005.

4. L.Sai Radja Chandran (992/2000)
No.36, Thambu Naicker Street,
Puducherry – 605 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondents 1 and 2 with No.Nil dated 29.1.2024 regarding the enquiry report submitted by the enquiry officer and the termination order with No.Nil dated



10.02.2024 and the order of the appellate authority with No.Nil dated 14.03.2024 rejecting the appeal filed by the petitioner and to quash the same and consequently to direct the respondents 1 and 2 to reinstate the petitioner into service with all other consequential benefits including back wages.

For Petitioner: Mr.V.Ajayakumar
For Respondents: Mr.S.Kumaran,
Additional Government Pleader, For R1,
(Pondy)
Mr. K.Srinivasa Moorthi,
Assisted by M.Vaikunth, For R2
Mr.Syed Musthafa,
Additional Government Pleader, for R3,
(Pondy)
Mr.K.Kannadhasan, for R4

ORDER

This writ petition is filed to call for the records of the respondents 1 and 2 dated 29.01.2024 regarding the enquiry report submitted by the Enquiry Officer, the termination order dated 10.02.2024 and the order of the appellate authority dated 14.03.2024.

2. The brief factual matrix in which the writ petition arises is that the petitioner was working as a Physical Education Teacher in the 2nd respondent School, run by the Archbishop of Pondicherry-Cuddalore Archdiocese, the 1st respondent herein. While so, a memorandum was issued on 19.09.2023 stating that complaints were received from other staff members relating to abusing,



disrespecting, detaining, ill-treating and exploiting the colleagues on 19.06.2023. On 01.08.2023, a complaint was also received from a parent by name Bhula. Another complaint was also received from yet another parent on 11.09.2023.

3. The petitioner was called upon to submit his written explanation within three days from the above memorandum as to why disciplinary action should not be taken against him. Thereafter, yet another memorandum was issued on 22.09.2023 stating that it is proposed disciplinary action against him for use of a mobile phone in the School campus, especially in the classroom during the teaching hours, by recording the proceedings of the classroom on 19.09.2023 using his mobile phone No.+91-9842456123. The petitioner was directed to submit his explanation in writing and if he does not submit his explanation, it was stated that orders will be passed *exparte*. The petitioner submitted his detailed explanation on 03.10.2023. The explanation was not accepted. The petitioner was placed under suspension on 09.10.2023. Thereafter, an Enquiry Officer was appointed to conduct an enquiry into the charges. The Enquiry Officer questioned the petitioner on the charges and the petitioner denied. Thereafter, the Enquiry Officer proceeded with the enquiry and finally submitted a report on 29.01.2024. A copy of the enquiry report is said to have been forwarded to the management as well as to the petitioner. It is further



stated that the management straight away passed the order of punishment dated 10.02.2024, the petitioner was imposed with the punishment of termination from service.

4. Aggrieved thereby, the petitioner filed an appeal before the first respondent Archdiocese. The first respondent, namely the Archbishop of Puducherry-Cuddalore, considered the appeal and modified the punishment as one of removal with gratuity and passed an order dated 14.03.2024. Aggrieved by both the original and the appellate order, the petitioner is before this Court.

5. Mr.AjayaKumar, Learned Counsel appearing on behalf of the petitioner would submit that even though the institution is an unaided institution, the Pondicherry School Education Act, 1987 is applicable to the petitioner. As per Section 17 of the Act, the Government of Puducherry is empowered to make Rules regulating even the conditions of service, including disciplinary matters of the teachers and other persons employed in the recognised Schools. The Government of Puducherry has framed the Pondicherry School Education Rules, 1996. As per Rule 48, the teachers and other persons employed in the recognised schools shall be governed, as required under sub-section (1) of Section 19 by the Code of Conduct as specified in the Appendix. Further, the procedure for imposing major penalties is contained in Rule 54, it must be seen



that the procedure from the beginning till the end is being laid out. The authorities are supposed to have initiated the disciplinary proceedings by framing definite charges. In this case, the charge itself is first framed only by the Enquiry Officer and not by the disciplinary authority. Secondly, no proper opportunity was granted during the enquiry. Thirdly, no second show cause notice, as mandated under the Rules has been issued and straight away the punishment was imposed.

6. Therefore, the Learned Counsel for the petitioner would submit that the impugned order of punishment cannot stand scrutiny of law. He would further submit that since the disciplinary matter is an exercise of statutory power, even as against the private school, the writ petition is maintainable.

7. Per contra, Mr.Srinivasa Moorthi, Learned Counsel appearing on behalf of the respondent school would submit that;

Firstly, even under the Act, there is an appeal remedy that is provided to the Officer not below the rank of the Director of Education and without filing the appeal, the writ petition cannot be entertained. He would submit that the writ petition against the private entity is not maintainable.



Secondly, as far as the charges are concerned, the memorandum that is given on both occasions contained the allegations against the petitioner and the petitioner has clearly understood what is the charges against him and has given a detailed explanation. Therefore, it cannot be said that no definite charges were framed. Even at the commencement of the enquiry, every charge was put to the petitioner and he was questioned and thus the principles of natural justice is duly complied with.

Thirdly, as far as the issue of second show cause notice is concerned, the Learned Counsel would rely upon the judgment of the Hon'ble Supreme Court in *Managing Director ECIL Hyderabad v. B.Karunakar (1993) 4 SCC 727*, to contend that in every case, non-compliance of second show cause notice would not automatically result in violation of principles of natural justice. The employee has also to plead prejudice on account of the same. In this case, there is no prejudice to the employee. Further, he would contend that the charges are very serious in nature and the School has completely lost confidence of the employee and therefore, in the context of the factual circumstances, the punishment imposed is warranted and the same need not be interfered.

8. The first contention that is raised is that there is an appeal remedy under the Act which is not resorted to by the petitioner. There are two factors



which this Court has to take into account.

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(i) Even though there is an alternative remedy of filing the appeal, the writ petition was also entertained in the year 2024 and the matter is pending before this Court;

(ii) Even now, this Court could have directed the petitioner to approach the appropriate authority by filing an appeal. However, the questions raised in this writ petition are with reference to framing of the charges itself and also compliance of principles of natural justice regarding the furnishing of enquiry report and issuance of a second show cause notice. Therefore, in that circumstances, this Court is not relegating the petitioner to the alternative remedy.

9. With reference to the maintainability of the writ petition, it can be seen that the appointment and conditions of service of the teachers of even the private school are in the public *realm*. Inasmuch as the Act empowers the Government to frame Rules in this regard and the Rules have also been framed, the minority institutions are contending that the Act is not applicable to them. Mr.Syed Mustafa, Learned Additional Government Pleader, who is present in Court, would confirm that the writ petitions are pending and that there is an



order of injunction that is operating not to apply the provisions of the Act to those schools.

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10. Be that as it may, even with reference to a private minority school, as far as the appointment of teachers and taking disciplinary action against them are concerned, there is an element of public duty that is involved with reference to the conduct of the school.

11. As far as the maintainability of the writ petition under Article 226 of Constitution of India is concerned, the law has been settled that the primary question that has to be seen is the nature of the duty that is complained. Therefore, I am of the view that when it comes to disciplinary action, especially on the strength of the enforcement of the provisions of the Right to Education Act, there is an element of public duty involved and therefore, I hold that the writ petition is maintainable. Further, it must be seen that, as on date, no stay has been granted; on the other hand, only an injunction has been granted and an order of injunction will apply only to the persons who are there before the Court. Strictly going by the letter of Pondicherry School Regulation Act and the Rules framed thereunder, the unaided minority institution is not exempted from the same. Therefore, this action is also in the nature of exercise of statutory power and therefore, the writ petition is maintainable.



12. The next question is whether the order of punishment is bad in law for not framing specific charges. In this regard, as rightly contended by Mr.K.Srinivasa Moorthi, if the contents of the charge is there for the petitioner to go through and understand, then the memorandum itself would suffice and it need not be specifically called as Charge Memorandum.

13. In this case, as far as the memorandum dated 22.09.2023 is concerned, every facet of the charge that is recording of the class using the mobile phone, the date on which it is recorded and the mobile phone number in which it is recorded were all categorically informed and the petitioner was called upon to submit his representation within 11 days on the receipt of memorandum and it is further made clear that failure of submission of his explanation, even *exparte* orders will be passed. As opposed to this, as far as the document dated 19.09.2023 is concerned, it is termed as a show cause notice. It does not contain the details of the offending Acts but it only forwards the three complaints and it makes the delinquent himself to ascertain as to what are the Acts that are taken as the misconduct. This cannot be termed as putting across the charges. A charge is the Act that is taken as misconduct, by the Management. In the complaints dated 19.06.2023 etc., the concerned individuals would have made so many allegations of which it is not known what was the offending portion that is taken as a misconduct by the management.



Further, the operative portion of the said show cause notice also directs the petitioner to submit his written explanation as to why disciplinary action should not be any taken against the petitioner. Therefore, that presupposes that the disciplinary action would be further initiated by levelling a charge. Therefore, insofar as the five charges are concerned, four charges are levelled only from the show cause notice dated 09.09.2023, which is the opinion of this Court would not amount to putting across the specific allegations making out to the charge.

14. As rightly pointed out by the Learned Counsel for the petitioner, it is the Enquiry Officer who, for the first time, culls out the charges and questions the delinquent in the enquiry proceedings. That procedure is not in consonance with the Rules, nor it can be said to be in consonance with the compliance of the principles of natural justice. Further, it can be seen that after the Enquiry Officer has completed the enquiry and submitted his report, no second show cause notice whatsoever has been issued. The ground that is pleaded is that no prejudice has been caused to the petitioner-employee. In this case, it can be seen that what are the misconducts that are taken as the charge itself is in doubt and therefore, the non-issuance of the second show cause notice definitely causes prejudice. Further, the employee is entitled to plead with the disciplinary authority as to which are the findings of the enquiry report that can be accepted



and which are the findings that cannot be and put forth his explanation in respect of the same. That is a valuable opportunity that is lost. Even perusal of Rule 54 of the Pondicherry Education Rules, it is made mandatory on the part of the institution to issue a second show cause notice. Even assuming for a moment that the petitioner is calling itself as a minority institution, the Hon'ble Supreme Court of India, in *Managing Director ECIL Hyderabad vs. B.Karunakar*, cited *supra* has categorically held that the exercise of issuing of second show cause notice and considering the explanation relates to compliance principles of natural justice and therefore, even *dehors* the Rules, the principles of natural justice ought to be complied with. I am unable to accept the contention of the Learned Counsel for the management that no prejudice whatsoever has been caused to the petitioner in the instant case.

15. For the aforesaid reasons, this writ petition is allowed on the following terms.

(i) The impugned order of termination dated 10.02.2024 and the order of the Appellate Authority dated 14.03.2024 stands set aside. It will be open for the respondent Institution either to reinstate the petitioner or to keep him under suspension and continue the enquiry afresh, if they choose to do.



(ii) If the second respondent wants to continue the enquiry afresh, it shall start from the stage of charge memorandum, framing the specific charges and calling for the petitioner's explanation. As far as possible, Rule 54 shall be adhered to as the same would also be otherwise in the nature of adhering to the principles of natural justice.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

02-02-2026

Neutral Citation: Yes

bsm

To,

1. The General Manager-cum- Arch Bishop of
Pondicherry-Cuddalore Archdiocese,
Arch Bishops House, P.O.Box.No. 193,
No. 206, Cathedral Street,
Puducherry -605 001.

2. The Principal,
Petit Seminaire Higher Secondary School,
M.G. Road, Puducherry.

3. The Director,
Directorate of School Education,
"A" Block, I Floor,
Perunthalaivar Kamaraj Centenary
Educational Complex, 100 ft Road,
Anna Nagar, Puducherry – 605 005.



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D.BHARATHA CHAKRAVARTHY, J.
bsm

W.P.No.9499 of 2024

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