

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 31ST DAY OF MARCH 2021 / 10TH CHAITHRA, 1943

WP(C).No.25065 OF 2020(G)

PETITIONER:

DR.MEERA RAJ S. ,
AGED 51 YEARS,
PRINCIPAL (UNDER ORDERS OF SUSPENSION) ,
COLLEGE OF TEACHER EDUCATION,
THOTTAKKADU, KOTTAYAM DISTRICT.

BY ADVS.
SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN

RESPONDENTS :

- 1 THE CENTRE FOR PROFESSIONAL AND ADVANCED LEGAL
STUDIES,
ARPOOKARA, KOTTAYAM-686008,
REPRESENTED BY ITS DIRECTOR.
- 2 THE DIRECTOR,
CENTRE FOR PROFESSIONAL AND ADVANCED LEGAL STUDIES,
ARPOOKARA,
KOTTAYAM-686008.

R1-2 BY SRI.P.C.SASIDHARAN, SC, CPAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31.03.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of March 2021

The only question involved in this case is whether the petitioner, while working as Principal under the first respondent, Centre for Professional and Advanced Legal Studies, can be suspended by Director of the Centre for Professional and Advanced Legal Studies or by the Executive Committee.

2. Learned counsel for the petitioner submitted that on the basis of some false complaints, vide Ext.P1 petitioner was suspended by respondent No.2, who is not a competent authority as per Rule 8 of Qualification, method of appointment and service conditions etc., in respect of the teaching and non teaching staff in the service of the society and colleges managed by the centre for professional and advanced studies, 2017. The power is vested only with the Executive Committee.

3. The factum of the same has been admitted by

respondents in paragraph No.6 of the counter affidavit, whereby it is stated that since immediate action was necessitated and the matter was placed before the Executive Committee and the Executive Committee ratified the order of suspension vide proceedings dated 12.11.2020.

4. Learned counsel appearing on behalf of the respondents submitted that there is no ambiguity and illegality in the order of the suspension owing to the serious allegations reflected in the complaint against the petitioner. The Director has the power Under Clause 9 of the Rule, rightly so the order of suspension has been issued.

5. I have heard counsel for the parties and appraised the paper books.

6. The aforementioned Rules 8 & 9 reads thus:

"8. Disciplinary Authority

a) Disciplinary proceedings against joint Director/Deputy Director/Principals/teacher etc can be initiated by the Executive Committee. The Governing body shall be the disciplinary authority as far as the

Director is concerned.

b) The Director CPAS is the authority for initiating disciplinary proceedings against non teaching staff.

9. Suspension

1. The Director shall place a teaching and non-teaching staff under suspension.

(i) Where a disciplinary proceedings against him if contemplated or is pending.

(ii) Where a case against him in respect of criminal offence is under investigation,

(iii) Where in the opinion of the authority he has engaged himself in activities prejudicial to the interests of the society and colleges or institutions under it.

(iv) where final orders are pending in the disciplinary proceedings if the appropriate authority considers that in the then prevailing circumstances it is necessary in the interest of the society that the teachers and non-teaching staff should be suspended from self financing colleges and institutions under the society and the society.

2. A teacher or a non-teaching staff shall be deemed to have been placed under suspension by an order of the appointing authority-

(a) With effect from the date of detention if he is detained in custody for a period exceeding 48 hours whether on criminal charges or otherwise.

(b) with effect from the date of his conviction for an offence if he is sentenced to a term of imprisonment exceeding 48 hours and is not forthwith removed on terminated consequent to such conviction.

3. Whenever an employee is placed under suspension he shall be paid half of the total remuneration which he/she is being paid at the time of suspension, until disciplinary proceedings are finally completed and disposed of. The disciplinary proceedings shall be completed expeditiously as possible and within a period of 4 months.”

Paragraph No.6 of the counter affidavit reads thus:

“6.It is submitted that since immediate action was necessitated that the order keeping the petitioner under suspension was issued by this deponent and the matter placed before the Executive Committee and the Executive Committee ratified the order of suspension by proceed No.1008/2020/CPASHO dated 12/11/2020. Hence the contention of the petitioner that the suspension order is violate of the Rules governing the service condition is not sustainable and has any legal face.”

7. As per the definition, Principal means Head of a College under the Society, which is totally different to the teacher as per the aforementioned rules. Thus, the Director would not have any power to suspend the petitioner. Ratification by the Executive Committee would not make the suspension order legal as, such an action

would not rule out a possibility of any *malafide*. Without commenting further regarding the conduct of respondent No.2, I am of the view that the suspension order Ext.P1 is wholly unjustified, without jurisdiction and hereby set aside. The writ petition stands allowed. However this order would not prevent the Executive Committee to take a call on the complaints and take an action in accordance with law, but not in the manner and mode as has been done.

Sd/-

AMIT RAWAL

JUDGE

VV

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE PROCEEDINGS
NO.1008/2020/CPAS HO DATED 12.11.2020
ISSUED BY THE 2ND RESPONDENT. |
| EXHIBIT P2 | TRUE COPY OF THE COMPLAINT DATED
5.8.2020 SUBMITTED BY THE STUDENTS OF
THE 2018-20 BATCH OF THE COLLEGE OF
TEACHER EDUCATION, ELANTHUR. |
| EXHIBIT P3 | TRUE COPY OF THE RULES RELATING TO
QUALIFICATION, METHOD OF APPOINTMENT
AND SERVICE CONDITION ETC, IN RESPECT
OF TEACHING AND NON-TEACHING STAFF IN
THE SERVICE OF THE SOCIETY AND COLLEGES
MANAGED BY THE CENTRE FOR PROFESSIONAL
AND ADVANCED STUDIES 2017. |