

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7275 of 2017

and

WMP No.7929 of 2017

B.Milton Boaz

Petitioner

1.State of Tamil Nadu, represented by
its Secretary to Government,
Higher Education Department,
Secretariat,
Chennai-600 009.

2.Director of Collegiate Education,
Chennai-600 006.

3.Principal,
Presidency College,
Chennai-600 005.

.. vs.

..

Respondents



This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent issued in his proceedings Na.Ka.No.29696/D5/2014 dated 18.2.2017, quash the same and consequently direct the respondents to regularise the services of the petitioner with all consequential benefits.

For Petitioner : Mr.T.Sellapandian

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader.

O R D E R

The show cause notice, issued by the second respondent in proceedings dated 18.2.2017, is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner contended that there is no cause for issuance of the show cause notice to the writ petitioner by the second respondent. Further, it is contended that the period of experience acquired was not taken into account for the purpose of awarding marks. Thus, the very show cause notice itself is perverse and no such notice ought to have been issued to the writ petitioner.

3. This Court is unable to accept the contentions raised on behalf of the writ petitioner on the ground that a writ petition cannot be entertained, questioning the merits of the case at the show cause notice stage. Any show cause notice issued on the set of allegations, the writ petitioner should submit his explanations/objections by producing necessary documents and by submitting the particulars in this regard. Instead of submitting necessary documents/available records, the writ petitioner has chosen to file this writ petition, challenging the show cause notice. At this stage, this Court will not be in a position to adjudicate the merits and the demerits of the case and it becomes unnecessary.

4. Intermittent intervention by the Courts ought to have been undertaken cautiously. The show cause notice can be challenged only under exceptional circumstances, if the notice was issued by an authority, without having any jurisdiction or incompetent or allegation of mala fide is raised. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as party in the writ proceedings in his personal capacity. In the absence of any such legal grounds, no writ can be entertained, questioning the show cause notice on merits. It is left open to the writ petitioner to submit his explanations/objections, proving his point of view on the set of allegations stated in the show cause notice impugned in this writ petition.

5. Such being the view of this Court, no further adjudication needs to be undertaken in this writ petition on the grounds raised by the writ petitioner. In the event of adjudicating this matter by these Courts, the discretion of the Competent Authorities to adjudicate the matter on merits will be taken away. The Writ Court cannot be used for that purpose and every authority under law is to be allowed to exercise his power and intervention of this Court or preventing the competent authorities from exercising the power, is certainly not preferable.

6. This Court is of the clear opinion that every institution in

our Great Nation to be respected by allowing such authorities

S.M.SUBRAMANIAM, J.

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of that institution to exercise their powers in accordance with law. Thus, intermittent intervention by entertaining the writ against the show cause notice will certainly amount to intervention of the powers of the authorities, which is not preferable at this stage. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

31-07-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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To

1.The Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat,
Chennai-600 009.

2.Director of Collegiate Education,
Chennai-600 006.

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