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WP No. 1129 of 2



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07-10-2026

Pronounced on : 08-10-2026

CORAM

THE HON'BLE MR.JUSTICE T. VINOD KUMAR

WP Nos. 1129 & 1130 and 1141 to 1144 of 2015

CNR:{HCMA010039612015}

and

M.P.Nos.1,1,1,1,1 & 1 of 2015

and 2 & 2 of 2015

W.P.No.1129 of 2015



Case QR

Ka.Bhasker

..Petitioner

Vs

The Registrar,
VIT University,
Vellore Institute of Technology,
Vellore - 632 104.

..Respondent



Case QR

WP No. 1130 of 2015

CNR:{HCMA010039962015}

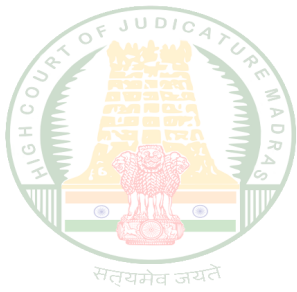
A. Ravindran

..Petitioner

Vs

The Registrar,
VIT University,
Vellore Institute of Technology,
Vellore-632 104.

..Respondent



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WP No. 1129 of 2



Order QR

WP No. 1141 of 2015



CNR:{HCMA010042182015}

R. Vijayakumar,

..Petitioner

Vs

The Registrar,
VIT University,
Vellore Institute of Technology,
Vellore - 631 006.

..Respondent

WP No. 1142 of 2015



CNR:{HCMA010042382015}

R. Suresh Kumar

..Petitioner

Vs

The Registrar
VIT University,
Vellore Institute of Technology,
Vellore - 631 104.

..Respondent

WP No. 1143 of 2015



CNR:{HCMA010042972015}

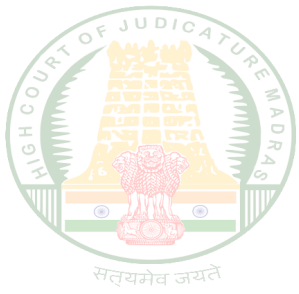
C. Venkata Samy

..Petitioner

Vs

The Registrar
VIT University,
Vellore Institute of Technology,
Vellore – 632 014.

..Respondent(s)

**WP No. 1144 of 2015**

CNR:{HCMA010043132015}

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V. Kalaiarasan,

..Petitioner

Vs

The Registrar
VIT University,
Vellore Institute of Technology,
Vellore - 632 014.

..Respondent

Prayer in W.P.No.1129 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondent to pay the subsistence allowance to the petitioner together with allowance as per Tamil Nadu Payment of Subsistence Allowance Act, 1981.

Prayer in W.P.No.1130 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondent to pay the Subsistence Allowance to the petitioner together with allowance as per Tamil Nadu Payment of Subsistence Allowance Act, 1981

Prayer in W.P.No.1141 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records in proceedings of the respondent in Ref: VIT/Regr/2014/3033, dated 05.12.2014 and quash the same as illegal, incompetent and unconstitutional.

Prayer in W.P.No.1142 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records in proceedings of the respondent in No.2957, dated 21.11.2014 and quash the same as illegal, incompetent and unconstitutional.



Prayer in W.P.No.1143 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records in proceedings of the respondent in No.2958, dated 21.11.2014 and quash the same as illegal, incompetent and unconstitutional.

Prayer in W.P.No.1144 of 2015: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records in proceedings of the respondent in Ref: VIT/Regr./2014/3035, dated 09.12.2014 and quash the same as illegal, incompetent and unconstitutional.

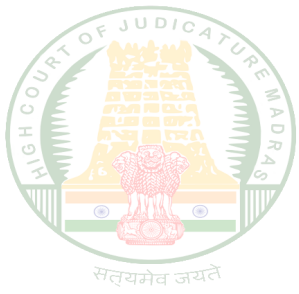
For Petitioner in all petitions	:	Mr.Navaneeth Raghavachari for Mrs.V.Srimathi
For Respondent in all petitions	:	No Appearance

COMMON ORDER

Heard the learned counsel for the petitioner. None appears for the respondent.

2. Since, the issue involved in all the writ petitions is one and the same and have been filed by the same counsel, all the writ petitions were taken up for hearing and are being disposed of by this common order.

3. For convenience, the facts as set out in W.P.No.1129 of 2016 are being referred to.



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4. The case of the petitioner in brief is that the respondent is a deemed University; that it has been set up under Section 3 of the University Grants Commission Act, 1956 (for short 'Act'); that the respondent is under the supervision and control of the University Grants Commission, which is a statutory body; that the power to confer degrees by the respondent is traceable to Section 22 of the University Grants Commission Act, which was hitherto being done only by public institutions set up by the State or Union of India; that being conferred with power to confer degrees under the UGC Act, the respondent is discharging a public function of imparting education and grant of degrees; and thus, the respondent is an “authority” under Article 226 of the Constitution of India.

5. It is the further case of the petitioner that after being appointed as Purchase Officer on 01.08.1996 and while working as Event Coordinator in the respondent University, he was placed under suspension pending enquiry *vide* order dated 12.06.2013; that the charges framed against him for conducting the enquiry are all flimsy and extremely fancy charges totally devoid of any merit; that the respondent initiated enquiry against him on the ground that his behaviour was unbecoming of a University employee; and that the procedure adopted by the respondent to initiate enquiry and placing him under suspension



ruins contrary to Rule 5.2 of the Human Resources Manual issued by the respondent.

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6. Petitioner further contended that though he had submitted a detailed explanation to the charges that were levelled against him and placing him under suspension, the same was not considered by the disciplinary authority, who passed an order of punishment; that aggrieved by the said order, he had filed an appeal before the Chancellor of the respondent University; and that the appellate authority rejected his appeal without giving him opportunity to put forth his case.

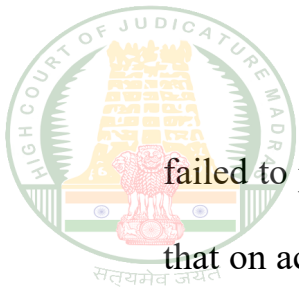
7. Petitioner further contended that though the respondent decided to hold the enquiry and appointed the enquiry officer contrary to the Regulations of the University, the respondent is under a legal obligation to pay subsistence allowance as per the provisions of the Tamil Nadu Payment of Subsistence Allowances Act, 1981 (for short 'Act' 1981) for the period of suspension; that as per the provisions of the Act, 1981, the suspended employee is entitled to receive subsistence allowance @ of 50% of the wages last drawn prior to his suspension for the first 90 days; that if the suspension period exceeds 90 days but does not exceed 180 days, 75% of the wages last drawn is to be paid as subsistence allowance and if the suspension period exceeds 180 days, full wages are payable; and that the respondent having placed the petitioner under



suspension from service on 12.06.2013 and continuing the said suspension, has an obligation to pay full salary as subsistence allowance from January 2014, which was not paid to him after paying subsistence allowance, initially.

8. Petitioner further contended that on 04.09.2014, he had approached the respondent and sought for disbursing the subsistence allowance; that the respondent, by communication dated 05.09.2014 directed him to submit an affidavit of non-acceptance of any employment during the suspension period; that he had filed an affidavit on 09.09.2014 clearly affirming non-employment during the suspension period; that the respondent, thereafter, in order to deny payment of subsistence allowance, had issued a show cause notice dated 12.09.2014 alleging that he had been gainfully employed at M/s.Onyx Trading during the suspension period and called upon him for submitting explanation; and that he had immediately submitted a detailed explanation denying the entire allegation on 16.09.2014.

9. Petitioner further contended that in the mean time, the writ petition filed by him before this Court earlier on the respondent initiating disciplinary action and appointing the Enquiry Officer *vide* W.P.No.6196 of 2014, came to be allowed, wherein this Court, by order dated 30.12.2014, had set aside the departmental enquiry initiated by the respondent; that even after this Court setting aside the departmental enquiry initiated against him, the respondent

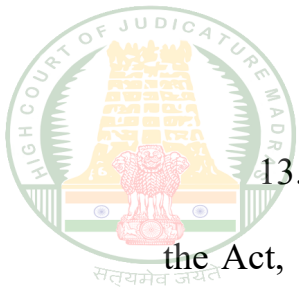


failed to pay subsistence allowance or allow him to rejoin the employment; and that on account of the aforesaid action of the respondent, he had approached the respondent on 19.11.2014 and sought for being paid subsistence allowance on account of the continuance of his suspension from service, in spite of departmental enquiry proceedings having been set aside by this Court; and that as the aforesaid request made by him did not elicit any response from the respondent, hence, this petition.

10. The respondent, despite being served with notice and having entered appearance through counsel, did not choose to file any counter affidavit, nor the counsel is present today before this Court, though having sought time on 06.10.2026.

11. I have taken note of the contention urged by the petitioner.

12. This Court, noticing that the respondent is a private University set up under the provisions of the Act and the petitioner being an employee working with the respondent and the dispute involved is in relation to employment and that the respondent not being amenable to writ jurisdiction as it cannot be considered as “State” under Article 12 of the Constitution of India in relation to the subject dispute had called upon the petitioner to satisfy this Court on the maintainability of the present writ petition as filed.



13. On behalf of the petitioner, it is contended that as per Section 2 (c) of the Act, 1981, the respondent is to be considered as an 'establishment' and the petitioner being an employee as defined under Section 2 (a) of the Act, 1981, the respondent is under an obligation to pay subsistence allowance in terms of Section 3 of the Act. It is also contended that even otherwise, the respondent has a social obligation to pay the subsistence allowance for placing an employee under suspension and the payment of the subsistence allowance to an employee during the suspension period is a public function and as such, the petitioner is entitled to maintain the present writ petition against the respondent.

14. Since, the petitioner is placing his claim for payment of subsistence allowance relying on the provisions of the Act, 1981, it would be appropriate to consider as to whether the Act, 1981 is applicable at all to the respondent University. The Act, 1981, which received the assent of the President on 21.07.1981 and extends to the whole of the State of Tamil Nadu, provides for the payment of subsistence allowance to the employees during the period of suspension. Section 2 of the said Act defines various terms and the term “employee” is defined under Section 2(a) of the Act as under:-

“2(a) “employee” means any person employed in, or in connection with the work or activities of, any establishment to do any skilled, semi-skilled or unskilled, manual, supervisory, technical, clerical or any other kind of work or activities for hire or reward, whether the terms of



employment to be expressed or implied, but does not include any such person-

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(i) who is employed mainly in a managerial or administrative capacity; or

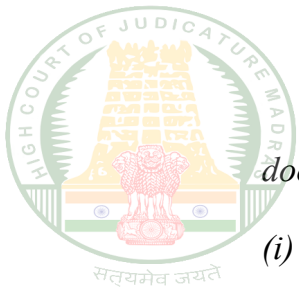
(ii) who, being employed in a supervisory capacity [draws wages exceeding three thousand and five hundred rupees per mensem] or exercises, either by the nature of the duties attached to the office or by reason of the powers vested to him, functions mainly of a managerial nature;”

(underlining supplied by Court)

15. A reading of the definition of “employee” as defined under the Act, 1981 would show that while it excludes certain categories of employees namely those working in a managerial or administrative capacity or in a supervisory capacity, the employment is to be in connection with the work or activities of, any establishment for doing skilled, unskilled, semi-skilled, manual, clerical or other kind of work or activities or hire on demand. Thus, it is only an employee who is employed in any establishment would get covered under the Act, 1981 and is entitled to be paid subsistence allowance during the period of suspension.

16. The term “establishment” is defined under Section 2(c) of the Act, 1981 and reads as under:

“(c) “establishment” means any place where any industry, trade, business, undertaking, manufacture, occupation or service is carried on, and with respect to which the executive power of the State extends, but



does not include—

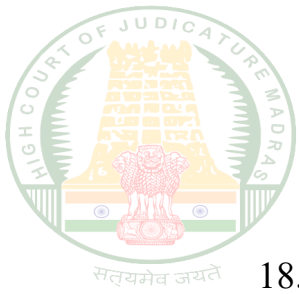
- (i) any office or department of the Central or the State Government; or*
- (ii) a railway administration; or*
- (iii) any mine or oil field; or*
- (iv) any major port; or*
- (v) any public sector undertaking of the Central Government.*

Explanation For the purpose of this clause “any public sector undertaking of the Central Government” means an establishment owned, controlled or managed by—

- (1) the Central Government or a department of the Central Government;*
- (2) a Government company as defined in Section 617 of the Companies Act, 1956 (Act 1 of 1956) and owned or controlled by the Central Government;*
- (3) a Corporation established by or under a Central. Act, which is owned, controlled or managed by the Central Government;”*

(Underlining supplied by Court)

17. Though the term “establishment” as defined under the Act, takes within its ambit any industry, trade, business, undertaking, manufacture, occupation or service that is carried on, however, the provisions of the Act would be applicable only when the executive power of the State extends to such activities, for it to be considered as an “establishment” as defined under Act, 1981.



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18. Admittedly, the respondent, though is situated in the State of Tamil Nadu, the executive power of the State does not extend to the activities of the respondent for it to be considered as an establishment. It is for the reason that the respondent does not receive any financial aid or assistance from the State, nor is it affiliated to any of the State Universities, whereby the executive power of the State has direct or indirect control over the functioning of the respondent, for the petitioner to contend that the provisions of the Act, 1981 would stand attracted to the respondent establishment.

19. Since, this Court has now come to the conclusion that the provisions of the Act, 1981 do not apply to the respondent, the present writ petition as filed for payment of subsistence allowance, claiming that the respondent is discharging a public function, is without any substance and is thus, liable to be rejected.

20. Further, the respondent being a private establishment and in the absence of the petitioner placing on record any Rules or Regulations framed by the respondent covering the aspect of payment of subsistence allowance to its employee when placed under suspension, the petitioner, by filing a writ petition, cannot seek for issuance of a writ of mandamus or writ of certiorarified mandamus to direct the respondent to make payment of subsistence allowance



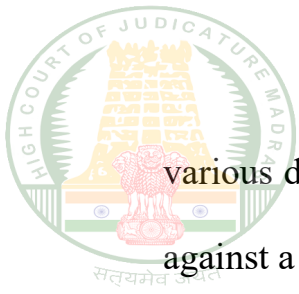
being a social obligation.

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21. Further, the respondent being a private establishment and not being covered by the provisions of the Act, 1981 or any Rules and Regulations framed by the respondent itself having a regulatory or statutory force, the petitioner cannot by way of a writ petition seek for enforcement of the obligation, as such a dispute would be in the private realm and cannot be brought into the public realm, for the respondent to be conferred the status of 'State' as defined under Article 12 of Constitution of India, for the petitioner to maintain the present writ petition under Article 226 of Constitution of India.

22. In such a situation, the terms and conditions of the employment between the petitioner and the respondent would be in the nature of employment contract and in case of any breach of the terms of the contract, the employee has to avail civil remedies and cannot file a writ petition invoking the jurisdiction of this Court, claiming the respondent to be an “authority” under Article 226 of Constitution of India.

23. The Hon'ble Supreme Court in the case of *St.Marys Education Society Vs. Rajendra Prasad Bhargava - (2023) 4 SCC 498*, after referring to



various decisions on the subject relating to the maintainability of a writ petition against a private educational institution, had held as under:

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(a) An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

(b) Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of “State” within the expansive definition under Article 12 or it was found that the action complained of has public law element.

(c) It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a Constitutional Court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory

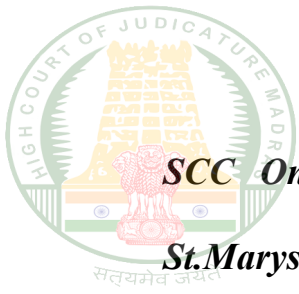
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provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

(d) Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded expression of the term, an employee of a non-teaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and non-teaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of non-teaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty."

(emphasis supplied by the Court)

24. The Hon'ble Supreme Court in the case of ***Army Welfare Educational Society Vs. Sunilkumar Sharma and others reported in 2024***

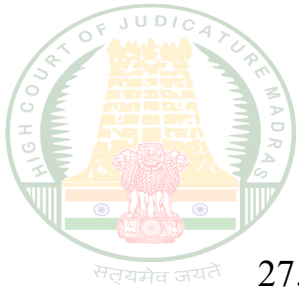


SCC Online SC 1683, after referring to the decisions rendered in the case of **St.Marys Education Society (Supra)** in relation to entertaining a writ petition had held as under:

“42. In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the Civil Appeals @ SLP (C) Nos. 3138-3141/2021 & 3133-3137/2021 High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a “State” within [Article 12](#) of the Constitution”.

25. Similarly, a Division Bench of this Court, in its order dated 02.09.2026 in W.A.No.2887 of 2023, had also held that the respondent school therein, being a private school, is not a “State” within the meaning of Article 12 of the Constitution of India and the first respondent, writ petitioner has to approach the competent forum for the purpose of securing appropriate relief.

26. Since, in the facts of the present case, as noted herein above, the respondent not being a “State” under Article 12 of the Constitution of India, nor an establishment as defined under the Act, 1981, the writ petition, as filed, is not maintainable, and the petitioner(s) have to approach competent forum for the purpose of securing appropriate relief, as observed by the Hon’ble Division Bench of this Court in its order dated 02.09.2026 in W.A.No.2887 of 2023.



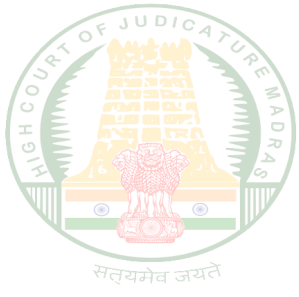
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27. In view of the above, the present writ petitions as filed before this Court are wholly misconceived and accordingly, are dismissed. However, it is open for the petitioner to approach the competent forum for the purpose of securing appropriate relief. Consequently, connected miscellaneous petitions are closed. No order as to costs.

08-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

dh
To
The Registrar
VIT University,
Vellore Institute of Technology,
Vellore - 632 104.



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WP No. 1129 of 2



Order QR

T.VINOD KUMAR J.

dh

Pre-delivery order made in
**WP Nos. 1129 & 1130 and
1141 to 1144 of 2015**

08-10-2026