

(1996) 11 MAD CK 0033
In the Madras High Court

Sivanthipatti Nadar Higher Secondary School	APPELLANT
Vs	
R. Paulraj and Others	RESPONDENT

Date of Decision : 06-11-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 1 MLJ 302

Hon'ble Judges : K.A. Swami, C.J

Bench : Single Bench

Judgement

K.A. Swami, C.J.—At the stage of admission 1st respondent who is the contesting respondent, has entered caveat. Respondents 2 and 3

are the statutory authorities. Learned Government Pleader to appear for them.

2. As the appeal lies in a narrow compass, it is admitted and heard for final disposal.

3. Learned single judge has interfered with the orders of respondents 2 and 3 accepting the resignation submitted by the 1st respondent as

Headmaster of the School in question.

4. The 1st respondent submitted the resignation on 1.10.1994 to be effective from 31.12.94. The School Committee considered the resignation

and accepted the same and forwarded it to the Chief Educational Officer, who is the authority for approval. The Chief Educational Officer by the

order dated 14.6.1995 after notice to the 1st respondent, inquired into the matter and found that the 1st respondent had submitted the resignation

and it was written and signed by the 1st respondent himself without any coercion.

5. In the appeal preferred by the 1st respondent, the Joint Director of Schools by the order dated 15.11.1995 has affirmed the same.

6. Thus, there is a finding of fact recorded by the two statutory authorities that the 1st respondent had tendered the resignation voluntarily and had admitted that he had tendered it voluntarily. The Management also has accepted the same. In fact, the proceedings of the 2nd and 3rd respondents would go to show that the 1st respondent was questioned during the proceedings and he admitted the submission of the resignation. We fail to understand, if at all, there was, any compulsion or coercion on the part of the management to the 1st respondent to tender resignation, nothing prevented the 1st respondent to withdraw the resignation, because it was to take effect from 31.12.1994. The fact that he did not move his finger till the acceptance of the resignation that he had either not submitted the resignation or tried to withdraw it, would also go to show that the resignation was tendered voluntarily.

7. However, learned single judge has gone into the facts and has observed thus: The petitioner has given the resignation¹ thereafter. His argument is also untenable. If the resignation was given on 1.10.1994 as contended, it would have certainly found a place in the resolution of the committee meeting particularly so when the correspondent and President of the third respondent School were present in the said meeting. Thus, viewed from any angle, it is difficult to accept that the petitioner tendered his resignation voluntarily. On the other hand, he has been agitating right from 19.8.1994 that the resignation was taken from him under compulsion. Having regard to the contravention of Rule 17-A(1), (4) and (6) also, it cannot be accepted that the resignation given by the petitioner was voluntary and it could be accepted. The Educational Authorities have exceeded their jurisdiction in holding an enquiry instead of just taking confirmation from the petitioner as contemplated under Rule 17-A (4). Further having heard to the decision on the case of Grama Committee High School represented by its Secretary v. I. Arunachalam and Anr. 100 L.W. 543 in my view, the impugned orders cannot be sustained, Paragraphs 16,20 and 21 of the said Judgment read thus:

It is only to govern such voluntary resignations, R-17-A was introduced by G.O.Ms. 586, dated 2nd April, 1981. The necessity for framing a specific rule was brought about by the unscrupulous tactics adopted by several educational agencies in obtaining undated resignation letters from

teachers even at the time of appointment or predated letters of resignation from them by force and making use of them whenever they like. When such instances came to light, in multitude, the Government thought fit to frame R-17-A in order to explode the camouflage adopted by the educational agencies for terminating the services of innocent and gullible teachers under the garb of resignation letters which were not in fact voluntary (Para. 16)

The last part of Clause (4) of the Rule makes it clear that the educational authority shall accord its approval to relieve the teacher on getting the confirmation of the fact of resignation. The language of this clause is mandatory. When once the fact of resignation is confirmed, the Educational Authority shall accord its approval to relieve the teacher from service. For the second time, the clause uses the words "relieve... from service."

There is no ambiguity with regard to the subject matter of approval to "relieve from service." There is also no uncertainty in the function of the concerned official under the clause. What all he has got to do is to get confirmation of the fact of resignation. If there is no confirmation, he shall not give his approval and if there is confirmation, he shall accord his approval (Para-20).

It is needless to point out that the educational agency would not forward the letter of resignation to the educational authority if it chooses not to accept the resignation of the teacher. It is, therefore, fallacious to contend that unless and until the Educational Authority accords his approval, there can be no acceptance of the resignation or that the acceptance is inchoate and incomplete. The provision in Clause (5) that the entries regarding the date of acceptance of resignation in Teachers' Service Register shall be made by the Secretary of the School Committee under proper attestation and duly counter-signed by the Educational Authorities makes it clear that the Educational Authorities have nothing to do with the acceptance as such. As and when the educational agency chooses to send the resignation letter of the teacher to the educational authority, the acceptance becomes complete. If the resignation is not voluntary, the acceptance thereof would be of no effect whatever. If the Educational Authority finds that the resignation is not voluntary, there will be no resignation in the eye of law. Hence, the validity of the acceptance of the

resignation depends on the truth and voluntary nature of the resignation and not on the approval of the Educational Authority. (Para.21)

In the result, I have no hesitation to hold that the impugned orders cannot be sustained. Hence, I proceed to pass the following order:

1. The writ petition is allowed;
2. The impugned orders are quashed; and
3. The petitioner is entitled to all the consequential benefits that flow from quashing the impugned orders.

8. We find it very difficult to agree with the learned single Judge. In a petition under Article 226, unless it is pointed out that the finding recorded

suffers from non consideration of the material evidence, or is unreasonable or capricious, this Court is not expected to re-appraise the evidence

and give its own reasons for recording a finding. The writ of certiorari lies against the manner of conducting the proceedings and the recording of

the findings. That being so, we are of the view that the learned single judge is not justified in interfering with the orders passed by respondents 2

and 3.

9. However, it is contended before us very strenuously by learned Counsel for the 1st respondent that respondents 2 and 3 are not entitled to go

into any other question except to have the confirmation of the resignation of the 1st respondent.

10. The power of the authority under Sub-rule (4) Rule 17-A of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 clearly

empowers the authority to ascertain as to whether there has been a coercion or compulsion exercised on the 1st respondent for obtaining the

resignation from him. In fact, Rule 17-A came to be introduced only to safeguard the interest of a teacher, who tenders resignation. This aspect of

it has been clearly brought about by a Division Bench of this Court in Grama Committee High School represented by its Secretary,

Venkateswarapuram v. I. Arunachalam 100 L.W. 542. Hence, we find it very difficult to affirm the order of the learned single judge.

11. Accordingly, the writ appeal is allowed. The order dated 12.8.1996 passed in W.P. No. 16698 of 1995 is set aside. The writ petition is

dismissed. The C.M.P is also dismissed. However, we make no order as to costs.