

**(2013) 11 KAR CK 0262**

**In the Karnataka High Court**

**Case No :** Writ Petition No. 12682 of 2011 (S-CAT)

Union of India and Others

APPELLANT

Vs

Sri S.B. Sankadavar

RESPONDENT

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**Date of Decision :** 28-11-2013

**Acts Referred:**

**Citation :** (2013) 11 KAR CK 0262

**Hon'ble Judges :** Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

**Bench :** Division Bench

**Advocate :** N. Amaresh, for the Appellant; Sunil, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Mohan M. Shantanagoudar, J.—By the impugned order, the Central Administrative Tribunal has set aside the Order of termination at Annexure-A8 dated 8.8.2006 and the Order of the appellate authority dated 11.9.2008 vide Annexure-A16. The records reveal that based on a complaint, notice came to be issued to the petitioner/respondent herein by the Commissioner of Navodaya Vidyalaya Samiti for conducting summary enquiry. Thereafter, the Order dated 8.8.2006 came to be passed by the Commissioner of Navodaya Vidyalaya Samiti terminating the services of the respondent herein holding that the respondent is prima facie guilty of moral turpitude involving/exhibition of immoral sexual behavior towards a girl student of class XI of Jawahar Navodaya Vidhyalaya, Hangal, Haveri District. The said Order of termination dated 8.8.2006 was confirmed by the appellate authority on 11.9.2008. Both the orders were assailed by the respondent before the Central Administrative Tribunal in OA No. 9/2009 which came to be allowed by the impugned order. The Tribunal after setting aside the order of termination directed the petitioners herein to hold fresh enquiry as per law.

2. We do not find any ground to interfere with the impugned order passed by the Tribunal. On 25.9.2005, the respondent herein allegedly involved in exhibition of

immoral sexual behavior towards a girl student of class XI of Jawahar Navodaya Vidhyalaya, Hangal and a complaint came to be lodged against the respondent. On 16.2.2006, notice came to be issued to the respondent by the department. However, the complaint lodged against the respondent was not served on the respondent. Even the enquiry report is not furnished to the respondent. The respondent does not know as to what is the enquiry report and what, is the say of the girl. Thereafter, the Order dated 8.8.2006 was passed terminating the services of the respondent, which came to be confirmed by appellate authority. However, both the orders are quashed by Central Administrative Tribunal.

3. The aforementioned facts clearly reveals that the summary enquiry conducted by the department against the respondent was not in accordance with the established principles of natural justice.

4. According to the petitioners, the summary enquiry was conducted as per the notification dated 20.12.1993 bearing No. F.14-2/93-NVS (Vig). The said notification empowers the Director of Navodaya Vidhyalaya Samithi, to conduct summary enquiry. After conducting summary enquiry, if the Director is satisfied that the guilt of the respondent relating to exhibition of immoral sexual behavior towards any girl student is proved, he can terminate the services of the employee by giving him one month or two months pay and allowances depending upon the guilty employee is being permanent or temporary under the services of the Samithi. In such cases, the procedure prescribed for holding major penalty in accordance with the CCS Rules, 1965 as applicable to employees of Navodhaya Vidhayalaya Samithi, shall be dispensed with provided that the Director is of the opinion that he is not fit to hold regular employee on account of serious embarrassment to the student. Exercising powers under the said notification dated 20.12.1993, the impugned order is passed. Similar notification relating to Kendriya Vidhayalaya was the subject matter before this Court in the case of Government of India and Others Vs. Dhanu S. Rathod, . In the said judgment, this court has observed that the summary enquiry does not empower the authority to dismiss or remove an employee without giving opportunity of hearing, on the charge or to have his say with regard to the evidence. It is also observed that giving opportunity to the respondent to show cause or giving personal hearing is a must but without causing embarrassment to the student or parent. In the matter on hand, even before this court, the Inquiry report is not furnished. In this view of the matter, we do not find any ground to interfere with the impugned order in as much as the tribunal is correct in directing the petitioners to conduct denovo enquiry. However, we direct the petitioners to take note of the observations made by this court in the case of Dhanu S. Rathod, cited supra before proceeding further against the respondent.

It is also relevant to note here, that, before issuance of termination order, it seems the complaint lodged by the girl is also withdrawn.

Petition stands dismissed with the aforesaid observations.