IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.25345 of 2015
and
M.P.No.1 of 2015

C.Bharathi ...Petitioner

Vs.

1. The State of Tamilnadu rep by
its Secretary,
School Education Department,
Fort St.George, Chennai-600 009.

2. The Director of School Education,
DPI, College Road,
Chennai-600 008.

3. The Chief Educational Officer,
Vellore, Vellore District.

4. The Headmaster,
Government Higher Secondary School,
Gingee- 632 202,
Tiruvannamalai District.

5. The Regional Officer,
Regional Audit Office,
3rd Floor, Big Bazaar Street,
Town Hall, Coimbatore. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the orders passed by the fourth respondent herein, vide his proceedings Na.Ka.No....57/2015 dated 05.05.2015 and quash the same.

For Petitioner : Mr.V.Thirupathi

For Respondents : Mr.S.Gunasekaran,
Government Advocate

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O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that at present he is working as Secondary Grade Teacher and he has obtained M.Com., degree in the year 1995 and also obtained B.Ed., degree in the year 2009 and he was awarded one incentive for acquiring B.Ed. and the second incentive for acquiring M.Com. degree and he was promoted as B.T. Assistant on 21.11.2011 and continuing in the said post in the fourth respondent school. The petitioner would further state that to his shock and surprise, he was issued with the impugned order dated 05.05.2015 ordering recovery based on audit objection and it has been done without issuing any notice whatsoever and hence, prays for appropriate orders.

3. The learned counsel appearing for the petitioner would submit that admittedly before issuing the impugned order of recovery, the petitioner has not been put on notice and prays for quashment of the said order.

4. Per contra, Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents, on instructions would submit that on account of audit objection, recovery has been effected and for any payments wrongfully made, the respondents are entitled to recover the same and the petitioner, by receiving excess amounts, has gained unjust enrichment and prays for dismissal of this writ petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. A perusal of the impugned order would disclose that before ordering recovery, the petitioner has not been put on notice and in the considered opinion of this Court, it is per se in violation of the principles of natural justice and hence on the sole ground it warrants interference.

7. In the result, this Writ Petition is partly allowed and the impugned order in Na.Ka.No.57/2015 passed by the fourth respondent dated 05.05.2015 is set aside and the matter is once again remanded to the fourth respondent to issue notice to the petitioner setting out the grounds for effecting recovery, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit his explanation within a period of one week thereafter and the fourth respondent, on receipt of the same, is directed to consider the

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said explanation on merits and in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary,
The State of Tamilnadu
School Education Department,
Fort St.George, Chennai-600 009.

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Chennai-600 008.

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1 CC to the Government Pleader, SR.No. 43536

W.P.No.25345 of 2015

SV (CO)
PSI (31.08.2015)

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