

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.34102 OF 2013
& M.P.Nos.1 and 2 of 2013

Aided Elementary School,
Reddipalayam, Kattukanur Post,
Arani Taluk, Thiruvannamalai District
represented by the
Manager A.Ganesan **

.. Petitioner

Versus

1. The Director of Elementary Education,
College Road, Chennai - 6.
2. The District Elementary Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The Assistant Elementary Educational Officer,
West Arani, Arani Taluk,
Thiruvannamalai District.
4. Thiru.Gunasekaran,
Assistant Elementary Educational Officer,
West Arani, Arani Taluk,
Thiruvannamalai District.

5. Tmt.K.Sankari **

.. Respondents

** The petitioner cause title amended and R5
impleaded vide court order dated 09.02.2015
in M.P.Nos.1 & 2/14 in W.P.No.34102/2013

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the order passed by him in his Proc.Na.Ka.No.5906/A4/2012, dated 31.10.2013 forwarded by the third respondent in his Proc.Na.Ka.No.1865/A1/2013, dated 05.11.2013 and quash the same and direct the respondents to take action on the complaint given by the petitioner vide his letter dated 20.08.2013 immediately against the fourth respondent.

For Petitioner : Mr.R.Singaravelan for M. Srividhya

For Respondents: Mr.S.Gunasekaran,
Govt. Advocate for RR 1to 4
Mr.P.Murali for R5

O R D E R

Heard Mr.R.Singaravelan, learned counsel for the petitioner, Mr.S.Gunasekaran, learned Government Advocate for the respondents 1 to 4 and Mr.P.Murali, learned counsel for the fifth respondent.

2. The petitioner seeks for issuance of writ of Certiorarified Mandamus to quash the order passed by the second respondent dated 31.10.2013, which has been forwarded by the third respondent by the proceedings dated 05.11.2013 and for a direction to the respondents to take action on the complaint given by the petitioner against the fourth respondent.

3. The petitioner is the Correspondent of an Aided Elementary School, which was established in the year 1948 by his forefathers. The petitioner school has got standards 1 to 5 catering to the educational need of the poor and downtrodden people in the said village for 65 years since 1948.

4. There appears to have arose a dispute between the Secretary of the school and the Headmaster, who has been impleaded as fifth respondent in the writ petition. The fifth respondent has written a complaint to the authorities and based on the same action has been taken and the impugned order has been passed directing that the payment of salary to the staff and teachers shall be disbursed directly by the Department and not routed through the management.

5. The only ground on which the impugned order is attacked is by contending that no opportunity was given to the petitioner and no enquiry was conducted and straightaway the impugned order came to be passed, which is illegal.

6. It is seen that when this writ petition came up for admission, an interim order of status quo was granted, by virtue of which, the petitioner continues to disburse the salary to the teachers.

7. A counter-affidavit has been filed by the District Elementary Educational Officer on behalf of the official respondents. It is stated in the counter-affidavit that the third respondent has written a Demi Official Letter to the second respondent to take over the management of the school on the basis of the 15 points indicating

the mismanagement and lack of infrastructure facilities, viz., not obtaining Building Stability Certificate from the Public Works Department, Health Certificate from Public Health Department, Fire Safety Certificate from the Fire Department, etc.. Therefore, it is stated that the third respondent requested the second respondent to bring the petitioner school under direct payment.

8. Further, it is alleged in the counter-affidavit that the Service Registers of the Staff and Teachers have not been properly maintained and there are several complaints by the teachers as well as retired teachers and there is mismanagement.

9. Insofar as the infrastructure facilities are concerned, it is not known as to how an order of direct payment of the salary would ensure that the infrastructure facilities are complied with. Infrastructure facilities are directly referable to the recognition granted to the school. If the petitioner institution failed to comply with the same, they should be directed to comply with the same. However, in regard to the complaint stating that the Service Registers have not been maintained properly etc., it is seen that there was no opportunity given to the petitioner to put forth their stand, but straight away the impugned order has been passed. Thus, it is evident that the impugned order is vitiated on account of the violation of principal of natural justice and as such, liable to be quashed.

10. Under normal circumstances, this Court would have quashed the impugned order and remanded back the matter to the authorities for fresh consideration. However, it appears that there are allegations referable to infrastructure facilities and regarding the manner in which, the affairs of the school are administered. Therefore, this Court, instead of quashing the impugned proceedings, deem it fit to direct the petitioner to submit its explanation to the impugned proceedings treating it as show-cause notice.

11. Accordingly, the petitioner is directed to submit its explanations by way of reply to all the allegations contained therein in the impugned order within a period of three weeks from the date of receipt of a copy of this order.

12. On receipt of the reply given by the petitioner, the second respondent shall conduct an enquiry, affording an opportunity of personal hearing to the petitioner, and pass orders on merits and in accordance with law within a period of three months from the date of receipt of the reply. Till final orders are passed in terms of above directions, the interim order of status quo which has been granted by this Court on 16.12.2013 shall continue to operate.

13. With the above directions, this writ petition is

disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

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To

1. The Director of Elementary Education,
College Road, Chennai - 6.
2. The District Elementary Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The Assistant Elementary Educational Officer,
West Arani, Arani Taluk,
Thiruvannamalai District.

1 cc to Mr.P. Murali, SR. 11937
1 cc to Government Pleader, Sr. 11556
1 c to M/s. Srividhya, Sr. 11738

W.P.NO.34102 OF 2013

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