

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.38488 of 2016

M/s.St. John Special School for
Mental Retardation,
Rep. by tis Correspondent
Mr.A.Jayachandran,
Ashokapuri Post,
Villupuram Taluk,
Villupuram District.

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
The Secretary for Differently
Abled Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The State Commissioner for
Differently Abled,
K.K.Nagar,
Chennai - 600 078.
3. The District Differently
Abled Welfare Officer,
Villupuram.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus to call for the further records relating to the order passed by the third respondent in Na.Ka.No.81/A/2016 dated 22.06.2016 and quash the same and further direct the respondents to pay the Food Aid and Teachers Aid to the petitioner's School for the year 2015-2016 with interest within stipulated period as fixed by this Court.

For Petitioner : Mr.S.Parthasarathy

For Respondents: Mr.P.Senthilvel
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents, who accepts

notice on behalf of the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2. This Writ Petition has been filed to quash the order passed by the third respondent in Na.Ka.No.81/A/2016 dated 22.06.2016 and to direct the respondents to pay the Food Aid and Teachers Aid to the petitioner School for the year 2015-2016 with interest within a stipulated period.

3. The case of the petitioner is that the petitioner school was started for the purpose of development of differently abled persons and mentally retarded persons and is being run for the past 22 years. According to the petitioner, the building was constructed 10 years back. Therefore, they sought for further aid from the Government for construction of the additional building in the said premises. On the basis of the said report, the third respondent recommended for a sanction of Rs.5 lakhs on 03.03.2010 and they received Rs.3 lakhs as first instalment and another sum of Rs.2 lakhs was given at the time of starting of the school.

4. The main contention of the petitioner is that salary aid has not been paid to the petitioner's school from 2011. As per the inspection report of the year 2011, the request of the petitioner for food aid and salary aid was recommended. In this regard, the petitioner has sent a representation to the second respondent on 24.04.2012 and that representation was not considered by the second respondent. Subsequently on 07.06.2012, the respondents granted food aid for the petitioner's school, but the teachers' salary aid was not given. Earlier, the petitioner had filed a Writ Petition in W.P.No.18410 of 2012 seeking to disburse the salary aid to the petitioner school. This Court by an Order dated 18.07.2012 directed the second respondent to inspect the petitioner's school and after inspection, to consider the proposal submitted by the third respondent dated 15.06.2012 and pass appropriate order within a period of four weeks after inspection. But without sanctioning the salary aid, by virtue of enquiry proceedings dated 10.09.2012, the second respondent, the petitioner school was directed to repay Rs.5 lakhs with interest, failing which criminal action will be initiated against the petitioner school. They have further stated that only after refund Rs.5 lakhs with interest, they can grant the salary aid. Challenging the said order of recovery, the petitioner had filed a Writ Petition in W.P.No.31911 of 2012 to disburse the sanctioned salary aid to the petitioner's school. In the said Writ Petition, there was a stay order for recovery of the amount.

5. While the above writ petition is pending, the petitioner school is stated to have obtained a loan for a sum of Rs.7,50,000/- from private financiers to run the school. Subsequently, on 28.11.2013, the respondent inspected the petitioner school and gave his recommendation to the second respondent to grant aid to the petitioner school for the year 2012-2013 and 2013-2014. But the second respondent failed to disburse the amount sanctioned to the petitioner school. Therefore, the petitioner again filed another Writ Petition in W.P.No.8150 of 2014 and the Writ Petition was admitted and posted along with the earlier Writ Petition. For the year 2014-2015, he sought for aid for 40 children. The Government again stated since the original amount of Rs.5 lakhs with interest was not repaid, they were not granted the aid sought for.

6. Further, as per the letter of the third respondent dated 26.08.2015, it has been pointed out that petitioner school has not made any application for food aid and salary aid for the year 2014-2015. Again the petitioner has filed another Writ Petition in W.P.No.29873 of 2015 and that is also kept pending and posted along with W.P.No.31911 of 2012. Thereafter, the petitioner has made another representation to the respondents for renewal of the petitioner's school on 10.05.2016. Subsequent to the representation of the petitioner, the present impugned Order dated 22.06.2016 was issued by the third respondent alleging that two mentally retarded children have no identity card for they being a specially challenged children. It is further alleged that the school was not conducted with trained and the records were not properly maintained. Moreover, they have not repaid the loan amount. According to the petitioner, there are three special teachers and from 2011-2012 no salary aid was not given to the petitioner school. Hence, the impugned order has been challenged in the present Writ Petition.

7. Admittedly, even as per the petitioner's affidavit, from the year 2011 no salary aid was given to the petitioner school. In this regard, the petitioner has been keep on sending representations to the respondents and writ petitions have been filed one after the other. But the fact remains that the petitioner was granted a sum of Rs.5,00,000/- way back in the year 2008 - 2009 and it has not been repaid by them along with interest. The main contention in the impugned order is that there were two inspections on 06.10.2015 and 16.06.2016 and the same was not disputed. At the time of both the inspections, two vital points have been pointed out. It appears that on 16.06.2016, when the inspection was conducted, it was found that out of 8 mentally retarded children who are above the age of 16, two of them did not possess identity card as differently abled persons, which is a mandatory requirement. It is also observed that no specially trained teachers and physiotherapists were appointed by the respondents. Even when the inspection was conducted on

06.10.2015, the same position existed, but the age of the 8 mentally retarded children was 15.

8. In view of the above circumstances, this Court finds no reason to interfere with the reasoned Order of the third respondent and this Writ Petition is dismissed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
Government of Tamil Nadu,
The Secretary for Differently
Abled Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The State Commissioner for
Differently Abled,
K.K.Nagar,
Chennai - 600 078.
3. The District Differently
Abled Welfare Officer,
Villupuram.

+1 cc to Mr.S.Parthasarathy,advocate,sr.62960

+1 cc to Government Pleader,sr.63296.

ssi(co)
krd 26/12

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