



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2016

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) Nos.24539 and 24540 of 2016

and W.M.P.(MD) Nos.17694 & 17695 of 2016

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|-----------------|--|
| 1. P.Muthupriya | ..Petitioner in W.P.(MD) No.24539/2016 |
| 2. S.Vijayarani | ..Petitioner in W.P.(MD) No.24540/2016 |

-vs-

1. The Director of Elementary Education,
Chennai-600 006.
2. The District Elementary Educational Officer,
Sivagangai District.
3. The Additional Assistant Elementary Educational Officer,
Ilaiyankudi, Sivagangai District. ...Respondents

Common Prayer: Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in Na.Ka.No.683/A2/2016 dated 23.11.2016 and quash the same.

For Petitioners : Mr.V.Panneer Selvam

For Respondents : Mr.A.K.Baskara Pandian

Spl. Govt. Pleader

C O M M O N O R D E R

These petitions have been filed, seeking to quash the impugned order dated 23.11.2016 passed by the 3rd respondent in Na.Ka.No.683/A2/2016, by which, higher scale of pay awarded to the petitioners was directed to be recovered on the basis of audit recovery, with direction to the petitioners to repay the amount within one week in one instalment. Aggrieved by the said order of recovery, the petitioners are before this Court.

2. The case of the petitioners is that since the juniors of petitioners were awarded selection grade in the cadre of Secondary Grade Teacher and were receiving higher scale of pay than the petitioners, they made a request to the respondents to step up their scale of pay on par with their juniors and the same was also accepted and proceedings were issued on 25.11.2011. While so, the 3rd respondent, based on audit objection, has passed the order of recovery on 23.11.2016 without affording any opportunity of



hearing to the petitioners. Contending that the impugned order is illegal and arbitrary, the petitioners are before this Court, seeking to quash the same.

3. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents.

4. The main plea taken by the petitioners in this case is that no opportunity of hearing has been granted to them before passing the impugned order of recovery, which is in violation of principles of natural justice and it affects the fundamental rights of the petitioners. I find much force in the contention raised by the petitioners and therefore, the impugned orders have no legs to stand and on this sole ground, the same have to be interfered with by this Court.

5. Accordingly, these Writ Petitions are allowed and the impugned orders are set aside. The matter is remanded back to the 3rd respondent and it is open to the 3rd respondent to issue fresh notice to the petitioners. On receipt of due notice, the petitioners shall submit their reply within the stipulated time to be prescribed by the 3rd respondent and the 3rd respondent, in turn shall pass appropriate orders thereon after hearing the petitioners within a period of two weeks from the date of receipt of such reply.

6. However, it is made clear that in case the petitioners fail to reply to the notice as well as to appear for personal hearing, it is open to the authority concerned to pass further orders based on the available records before it. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To:

1. The Director of Elementary Education, Chennai-600 006.
2. The District Elementary Educational Officer,
Sivagangai District.
3. The Additional Assistant Elementary Educational Officer,
Ilaiyankudi, Sivagangai District.

+1cc to the Special Government Pleader, in SR.82983

+2cc to M/s.V.Paneer Selvam, Advocate in SR.82653 & 82654

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