

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.09.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.10138 of 2010
and
M.P.Nos.1 to 1 of 2010

1.T.Gnanamoorthy

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Petitioner

Vs

1.The Director of Elementary Education,
College Road,
Nungambakkam,
Chennai - 600 006.

2.The District Elementary Education Officer,
Vellore District,
Vellore.

3.The Assistant Elementary Education Officer,
Kandhili, Thirupattur,
Vellore District.

4.The Accountant General (A&E),
Tamil Nadu,
Teynampet, Chennai - 18.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders in proceedings Nos.Na.Ka.No.241/A3/2010 dated 08.03.2010 and Na.Ka.No.241/A3/2010 dated 13.04.2010 passed by the 3rd respondent herein and quash them as illegal, arbitrary, unreasonable, being violative of rules and principles of natural justice thereby direct the respondents not to recover any amount from the petitioner and also to release the D.C.R.G amount sanctioned by the Accountant General, Tamil Nadu.

For Petitioner :Mr.V.Thirupathi

For Respondents :Mrs.M.E.Rani Selvam
Additional Government Pleader

ORDER

The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders in proceedings Nos.Na.Ka.No.241/A3/2010 dated 08.03.2010 and Na.Ka.No.241/A3/2010 dated 13.04.2010 passed

by the 3rd respondent herein and quash them as illegal, arbitrary, unreasonable, being violative of rules and principles of natural justice thereby direct the respondents not to recover any amount from the petitioner and also to release the D.C.R.G amount sanctioned by the Accountant General, Tamil Nadu.

2. Challenging the order of recovery proceedings issued by the 3rd respondent in Na.Ka.No.241/A3/2010 dated 08.03.2010 and by the 2nd respondent in Na.Ka.No.241/A3/2010 dated 13.04.2010, the petitioner has filed the present writ petition.

3. The case of the petitioner is that the impugned orders were passed on 08.03.2010 and 13.04.2010 respectively, without giving any opportunity of personal hearing to the petitioner for submitting his explanation. Therefore, the impugned orders were passed without following the principles of natural justice and hence the petitioner has filed the present petition seeking to quash the above said impugned orders.

4. Mrs.M.E.Rani Selvam, the learned Additional Government Pleader appearing for the respondents has filed a counter affidavit, wherein, it is stated that the impugned orders were passed only based on the order passed by the Higher Authority concerned and there is no necessity to give opportunity of personal hearing to the petitioner before passing the impugned orders. He further stated that the orders are well considered and warranting no interference by this Court. Therefore, he prayed for dismissal of the Writ Petition.

5. I heard Mr.V.Thirupathi, learned counsel appearing for the petitioner; Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents and also perused the materials available on record.

6. It is an admitted fact that the order of recovery has been passed without giving an opportunity of personal hearing to the petitioner or without calling for any explanation. On perusal of the impugned orders, it is made clear that no opportunity has been given to the petitioner and without issuing show cause notice, the present impugned orders have been passed for recovery of excess payment made to the petitioner.

7. The Apex Court has time and again reiterated the necessity of giving personal opportunity of hearing to the petitioner before passing appropriate orders. Admittedly, in this case, no such opportunity was afforded to the petitioner. Since the impugned orders were passed by respondents without following the principles of natural justice, they are liable to be quashed and accordingly, they are quashed.

8. In the result,

(a) The writ petition stands allowed and the impugned orders in Na.Ka.No.241/A3/2010 dated 08.03.2010 and Na.Ka.No.241/A3/2010 dated 13.04.2010 are quashed;

(b) The matter is remanded to the authority concerned to pass appropriate orders after affording an opportunity of personal hearing to the petitioner;

(c) the said exercise shall be done within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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TO

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+1cc to Mr.V.Thirupathi, Advocate SR.No.63623

W.P.No.10138 of 2010

AD(CO)
GN(03/10/2017)