

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.02.2018
Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1041 of 2011
and M.P.No.1 of 2011

1. The Government of Tamil Nadu
Education Department
rep. by its Secretary
Fort St.George, Chennai 600 009.
 2. The Director of School Education
Directorate of School Education
Chennai 600 006.
 3. The Chief Educational Officer
Tirunelveli District.
 4. The District Educational Officer,
Tenkasi.
- Appellants
- Vs.
1. Nirmala Roselin
 2. The Correspondent
AG High School
Kanakapillaivalasai
Sengottai Taluk.
- Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 07.03.2008 made in W.P.No.8711 of 2003, on the file of this Court.

W.P.No.8711 of 2003:-

writ petition filed under Article 226 of the Constitution of India calling for the records of the respondents 3 & 4 which culminated in the impugned order dated 21.11.2002 made in Na.Ka.2025/A3/2002 of the fourth respondent, and quash the same and consequently direct the respondents 3 and 4 herein to implement the terms G.O.ms.525 School Education (D10 Department dated 29.12.1997

For Appellants : Mr.K.Karthikeyan
Government Advocate (Education)
For Respondents : No appearance

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The writ petition filed by the first respondent revising her pay scale and directing recovery was quashed by the learned Single Judge in W.P.No.8711 of 2003. The said order is under challenge at the instance of the State.

2. It is the contention of the appellants that the A.G.High School was upgraded as a High School with effect from the academic year 1995-1996. The order of upgradation was issued on condition that no grant would be paid from the State funds. It so appears that the first respondent, who was working as a B.T. Assistant functioned as the Headmaster in-charge. She was paid the salary of the Headmaster continuously by the Management after taking grant from the Government. Subsequently, the authorities noted the mistake and passed the impugned order directing recovery. The said order was challenged before the writ court, primarily on the ground that it was passed in violation of principles of natural justice. The learned Single Judge quashed the impugned order.

3. The learned Single Judge quashed the order on the ground that before re-fixing the salary and directing recovery, notice should have been given to the first respondent. Having said so, the learned Single Judge instead of remitting the matter for fresh consideration after issuing notice, quashed the order including the re-fixation of the pay scale of the first respondent.

4. There is no dispute that before passing the impugned order, the first respondent was not given an opportunity to explain her position. The learned Single Judge was therefore, justified in quashing the impugned order. However, there was no opportunity given to the State to issue notice to the first respondent and to pass a fresh order on merits. We are, therefore, of the view that the impugned order is liable to be set aside in part.

5. The order dated 21 November, 2002 on the file of the District Educational Officer, Thenkasi is quashed on the ground of violation of principles of natural justice. The District Educational Officer is given liberty to issue notice to the first respondent and pass a fresh order on merits and as per law. The order passed by the learned Single Judge is set aside in part as indicated above.

The intra court appeal is allowed. No costs. Consequently,
connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gms

To

1. The Secretary
Government of Tamil Nadu
Education Department
Fort St.George, Chennai 600 009.
2. The Director of School Education
Directorate of School Education
Chennai 600 006.
3. The Chief Educational Officer
Tirunelveli District.
4. The District Educational Officer,
Tenkasi.

+1cc to the Government Pleader, S.R.No.14016

W.A.No.1041 of 2011

NRK (CO)
CS/26/03/18

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