



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.02.2018

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THE HON'BLE MR.JUSTICE **V.BHARATHIDASAN**

W.P.(MD)No.1314 of 2018

and

W.M.P.(MD)Nos.1378 and 1379 of 2018

Thevarkula (T.K.) Agamudaiyar Elementary School,
Sathangudi Post & Village, Thirumangalam Taluk,
Madurai District, represented by its Secretary,
Mr.V.Thangadurai.

. . .Petitioner

-Vs-

1. The Director of Elementary Education,
Directorate of Elementary Education,
College Road, Chennai.
2. The Joint Director of Elementary Education,
Directorate of Elementary Education (Aided Schools),
College Road, Chennai.
3. The District Elementary Educational Officer,
Madurai District, Madurai.
4. The Additional Assistant Elementary Educational Officer,
Thirumangalam, Madurai District. . . Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, to call for the entire records pertaining to the impugned order passed by the third respondent in his reference ஒ.பு.எண்.5746/அ3/2017 dated 11.12.2017 which was sent to the petitioner only on 30.12.2017 through whatsapp and quash the same as illegal.

For petitioner	: Mr.K.Muthumalai
For respondents	: Mr.Aayiram K.Selvakumar Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent dated 11.12.2017.

2. According to the petitioner, he is the Secretary of the petitioner School, which is an aided School. Earlier, a School Committee has been constituted as per Rule 12 of the Tamil Nadu Recognized Private Schools (Regulations) Rules 1974 which was also



approved by the third respondent based on the recommendations of the fourth respondent by his proceedings in மு.ம.எண்.4842/அ3/2015 dated 13.10.2015 for the period from 08.09.2015 to 07.08.2018.

3. The fourth respondent, who is acting against the interest of the petitioner School, deliberately sent a communication to one R.Sekar, who has nothing to do with the School stating that the authorities are resorting to direct payment of salary for the petitioner school. Subsequently, without issuing any notice to the petitioner based on the recommendations of fourth respondent, the third respondent passed the impugned order for direct payment of salary, on the ground that there is a delay of approving the School Committee and the Secretary of the School Committee. Now, Challenging the same, the present Writ Petition has been filed.

4. The third respondent has filed his counter affidavit stating that there are so many allegations levelled against the Secretary of the School Committee that he is not paying the salary to the Teachers in time from 2016 and the third and fourth respondent received a number of complaints from the Teachers. Subsequently, the majority of the members of the committee passed a resolution to dissolve the School Committee and also communicated the same to the 4th respondent. In the above circumstances, the third respondent has directed the School to resort direct payment of salary to the Teachers. The above order has been passed only on the complaint given by the Teachers for non-payment of salary.

5. The learned counsel appearing for the petitioner contented that as per the order passed by the second respondent, the School Committee and the Secretary of the School Committee have been approved by the third respondent. subsequently, some allegations said to have been levelled against the petitioner, based on the allegation the fourth respondent recommended for direct payment of the salary to the teachers. The impugned order has been passed without issuing any notice to the petitioner and without conducting any enquiry. Hence, the order passed by the third respondent is in violation of Principle of Natural justice. Apart from that the reasons stated by the respondent that approval of the School Committee and the Secretary to the School Committee in pending is also not factually correct.

6. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that based on the complaint received from the Teachers that salaries have not been properly paid, the fourth respondent made recommendations to the third respondent, narrating the incidents, where, the petitioner <https://hccs.cererts.gov.in/hccs/cert>. In the above circumstances, based on the recommendations of the 4th respondent, the present impugned order has been passed only in order to safeguard the interest of the



Teachers and the Non Teaching Staffs working in the petitioner School and there is no necessary to give any opportunity to the petitioner.

7. This Court has considered the rival submissions made on either side and perused the materials.

8. On perusal of the impugned order, it could be seen order has been passed on the ground that there is a delay in approving the school committee as well as the Secretary to the school committee. But, now it is submitted that based on the request of the Teachers and based on the recommendations were made by the 4th respondent to the third respondent and the impugned order has been passed by the third respondent. When some allegations are made against the petitioner and based on that allegations the impugned order has been passed and it is expected that an opportunity should be given to the petitioner to submit his objections for those allegations. But without giving any opportunity and conducting any enquiry, only based on the recommendations of the 4th respondent, the impugned order has been passed, is violation of principal of natural justice.

9. In the above circumstances, on the ground of violation of principal of natural justice alone, the impugned order passed by the third respondent is set aside and the matter is remanded back to the third respondent for fresh consideration. The third respondent is directed to issue notice to the petitioner and conduct enquiry and pass fresh orders on merits and in accordance with law, after giving necessary opportunity to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above said observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, W.M.P. (MD) Nos. 1378 and 1379 of 2018 are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
Directorate of Elementary Education,
College Road, Chennai.

2. The Joint Director of Elementary Education,
Directorate of Elementary Education (Aided Schools),
College Road, Chennai.



3. The District Elementary Educational Officer,
Madurai District, Madurai.

4. The Additional Assistant Elementary Educational Officer,
Thirumangalam, Madurai District.

+1cc to Mr.K.Muthumalai, Advocate Sr.No.45602

+1cc to The Spl. Government Pleader Sr.No.46220

TA

VB/GT/SAR3/28.02.2018/4P/7C

W.P. (MD) .No.1314 of 2018
01.02.2018