BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.12.2020
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD)No.18056 of 2014
and M.P.(MD)No.1 of 2014

L.Selvan ... Petitioner

Vs.

1.The Director,
Director of Aadidravida & Tribal Welfare,
Chepauk, Chennai.

2.The Financial Advisor and Chief Accounts Officer,
Director of Aadidravida Welfare,
Chennai-5.

3.The District Aadidravida and Tribal Welfare Officer,
Nagercoil, Kanyakumari District.

4.The Head Master,
Government High School,
Aadidravida Welfare,
Vaalaiyathuvayal,
Nagercoil,
Kanyakuari District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pursuant to order passed by the third respondent in Na.Ka.No.J5/23957/2009, dated 24.10.2014, quash the same and consequently direct the second respondent to repay the deposited amount of Rs.2,77,288/- to the petitioner.

For Petitioner : Mr.M.Subash Babu
For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

The impugned order of recovery dated 24.10.2014 passed by the third respondent is sought to be quashed in the present writ petition. The petitioner joined as Tamil Pandit on 01.04.1984. He was working as Warden at Government College Hostel, Nagercoil from April 2001 to August 2003. The petitioner claimed expenditure to meet out the hostel expenditures. The Authorities competent found out that during certain period, the hostel expenses are less and in few months it was exorbitant. Thus, the audit is directed to be conducted in respect of the expenses met out by the petitioner regarding the maintenance of the hostel. The order of recovery was passed by stating that an excess amount of Rs.2,77,288/- was claimed by the petitioner and financial loss is caused to the State.

2.Earlier the writ petitioner filed a writ petition mainly on the ground that no opportunity was given to him. This Court passed an order directing the authorities to provide opportunity and issue fresh order. Accordingly, the petitioner was provided with an opportunity to submit his explanation. The Authorities competent found that the petitioner has intentionally spent excess amount despite the fact that he was aware of the Government Orders regarding expenditure to be met out in the Government hostels. The audit report also reveals that the petitioner has made excess expenditure over and above the limit fixed by the Government. The audit objections are also very clear in this regard. At the time of retirement, in order to receive no objection certificate, the petitioner himself had deposited the entire excess expenditure and accordingly, received the pension. After receiving the pension, the petitioner has challenged the recovery order. The Authorities competent based on the G.O.No.191, dated 13.08.2003 and based on the audit report, arrived a conclusion that the petitioner has spent excess amount over and above the ceiling fixed in the Government Order and caused financial loss to the State to the tune of Rs.2,77,288/-

3.The learned counsel appearing for the petitioner cited orders passed in W.P.(MD)No.10937 of 2009 and in that case, there was a finding that the excess expenditure was made for the benefit of the children by providing food. However, in the present case, it is not established that the excess expenditure was spent to the benefit of the children. In the absence of any such proof, the excess expenditure cannot be construed as if it was spent for the benefit of the children. Factual inference in this regard is infirmable unless it is established by the delinquent officials that he has spent the money for the benefit and welfare of the children. Therefore, the said judgment is of no avail to the writ petitioner.

4.This Court is of the considered opinion that the hostel wardens are to be conscious with reference to the expenditure to be met out in the Government hostels. The amount sanctioned must be spent for the welfare and benefit of the children. But unfortunately, in most of the Government hostels, many irregularities are identified in the matter of purchase of materials and Government Authorities must be vigilant in dealing with such irregularities and illegalities. Periodical inspection, audit and enquiry is required in order to control the expenditure in the Government hostels in accordance with the Government policies and in the event of any such irregularities, immediate actions are to be initiated against the erring officials.

5.In this view of the matter, the writ petitioner has not established that the excess amount was met out for the welfare of the children and therefore, the recovery already effected is in consonance with principles and there is no infirmity, as such this writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

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Sub Assistant Registrar(CS)

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To

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Kanyakuari District.

+1 CC to M/s.SUBASH BABU.M, Advocate (SR-24059[F] dated 04/12/2020)

+1 CC to M/s.SPL GP (SR-24244[F] dated 07/12/2020)

W.P.(MD)No.18056 of 2014
02.12.2020

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