BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.11.2020
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD)No.5622 of 2015
and
M.P.(MD)No.2 of 2015

M.P.Danabakkiam ... Petitioner

Vs.

1. The Account General (Audit)
   Office of the Accountant General,
   Madurai.

2. The Chief Educational Officer,
   Theni 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 relating to the impugned order of the second respondent in Na.Ka.No.3199/A2/2012, dated 22.01.2013 and the consequential impugned order of the second respondent in Na.Ka.No.3199/A2/2014, dated 22.09.2014 quash the same and consequently, direct the respondents herein to refund the entire amount of Rs.1,12,761/- (Rupees One Lakh Twelve Thousand Seven Hundred)

For Petitioner : Mr.K.Appadurai
For R1 : Mr.P.Gunasekaran
For R2 : Mrs.S.Srimathy
Special Government Pleader

ORDER

The order of recovery dated 22.01.2013 and the consequential order dated 22.09.2014 are under challenge in the present writ petition.

2.The petitioner states that she was appointed as P.G.Assistant (Geography) and subsequently, promoted to the post of Headmistress. She retired as Headmistress from the Government Higher Secondary School, Aundipatty on 31.10.2011.

3.The petitioner's states that during the period from 12.10.2010 to 31.10.2011, 40 bicycles were issued freely to the students studying in 11^{th} standard at the Government Higher Secondary School, Aundipatty. The petitioner states that those students were coming of the way from the adjacent villages and unable to attend their special classes in the evening hours. Thus, the bicycles were issued freely to those students by the petitioner. The petitioner at the outset narrated that she has followed the Rules and accordingly, distributed the bicycles to the students studying in 11th standard.

4.The learned counsel appearing for the respondents made a submission that the supply of free bicycles to the school students is a Government policy and the policy is regulated by the Government in G.O.Ms.No.21, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 17.06.2004. The bicycles are directed to be supplied to the needy people at the free of cost. Thus, the petitioner is bound to follow the instructions issued in the Government Order for free distribution of bicycles to the students studying in the School. During the audit by the Accountant General of Tamil Nadu, it is found that the writ petitioner supplied bicycles to the ineligible students and in violation of the Government Orders. Accordingly, the Audit already raised an objection and issued suitable orders to recover the financial loss occurred to the Government. Undoubtedly, the free bicycles are distributed to the students for their welfare and in order to boost their morale to attend the school regularly and to develop the literacy level in the State of Tamil Nadu.

5.Taxpayer's money are involved regarding the supply of free bicycles to the students. Thus, the School Headmistress are bound to follow the directions carefully and scrupulously. When the taxpayer's money is spent for the welfare of the children studying in the School, then, such schemes are to be implemented strictly in accordance with the guidelines and to the needy people. In the present case, the conditions issued by the Government in G.O.Ms.No.21, Backward Classes, Most Backward Classes and Minorities Welfare Department, dated 17.06.2004, in Paragraph No.4 are as follows:-

> 4.The Government after careful examination pass the following orders:-
>
> "(I) During the Academic year 2004-05 free bicycles at an approximate cost of Rs.1600/- (Rupees One Thousand Six Hundred only) per bicycles shall be provided to 2.96 lakhs (approximate) girl students belonging to Backward Classes, Most Backward Classes and Denotified Communities studying in XI and XII standards in all Government and Government Aided Schools at a total cost of Rs.47.36 crores;
>
> (ii) Cycles shall be with standard accessories viz., PVC saddle, bell, lock, stand, carrier, Full Gear case and also optional accessory of Front basket and the cost per bicycle includes fitting charges and secondary freight charges. The bicycles will be delivered at the respective school;
>
> (iii) The following categories of students are not eligible to receive bicycle under this scheme:

(a) Students staying in Residential Schools and Schools where the Hostel and the schools are in same campus; and
(b) Students who are desirous of availing free bus pass:
(IV) Cycles shall be numbered to avoid misuse;
(V) An appropriate emblem shall be fixed to indicate that the bicycle has been issued under the Government Scheme; and
(VI) Cost of bicycle shall be recovered from the beneficiaries in the event of selling or irregular usage".

6. As per the Government Orders, Students staying in Residential Schools and the schools where the Hostel and schools are in same campus are not eligible to get free bicycles. On verification, it is found that the writ petitioner has supplied 40 free bicycles to the students who were staying in the hostel and studying. Thus, the recovery is imposed on the writ petitioner.

7.In view of the facts and circumstances, this Court is of the considered opinion that the reasons stated by the petitioner is unacceptable and as per the audit objection, the taxpayer's money illegally dealt with by the writ petitioner is to be recovered and there is no infirmity as such. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Account General (Audit)
   Office of the Accountant General,
   Madurai.

2. The Chief Educational Officer,
   Theni District.

+1 CC to the SPL GP (SR-23311[F] dated 30/11/2020)

W.P.(MD)No.5622 of 2015
26.11.2020

SSS(CO)
CS(07.12.2020) 3P 4C