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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.Nos.1035 to 1040 of 2015

and

M.P.Nos.2 of 2015 (6)

Immaculate Heart of Mary Hr. Sec. School
Rep. by The Correspondent
Church Street
Ariyankuppam
Puducherry - 605 007

... Petitioner in WP/1035/2015

St.Joseph's Govt. Aided High School
Rep. by The Correspondent
Rosario Street
Muthialpet
Puducherry - 605 003

... Petitioner in WP/1036/2015

Immaculate Heart of Mary's Girls Aided High School
Rep. by The Correspondent
Reddiarpalayam
Puducherry - 605 010

... Petitioner in WP/1037/2015

Immaculate Heart of Mary's High School
Rep. by The Correspondent
Nellithope
Puducherry - 605 005

... Petitioner in WP/1038/2015

Jayarani Govt. Aided High School
Rep. by The Correspondent
196, Lal Bahadur Street
Puducherry - 605 001

... Petitioner in WP/1039/2015

Immaculate Heart of Mary's Govt. Aided High School
Rep. by The Correspondent
Villianur
Puducherry - 605 110

... Petitioner in WP/1040/2015



Vs.

1. The Union territory of Puducherry
Rep. by its Secretary
Department of School Education
Secretariate, Puducherry – 605 001.

2. The Director of School Education,
Government of Puducherry
Directorate of School Education
Puducherry – 605 005

3. The Senior Accounts Officer
Government of Puducherry
Directorate of School Education
Puducherry – 605 005

...Respondents in all WPs.

Prayers in W.P.No.1035 to 1040 of 2015 : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the proceedings dated 29.10.2014 in No.25-1/DSE/GIAS/U.III/2013-14, on the file of the 3rd respondent and quash the same in respect of the petitioner school.

For Petitioner : Dr.Fr.A.Xavier Arulraj
(in all WPs) Senior Counsel
Assisted By
Mrs.A.Arul Mary

For Respondents : Mr.R.Syed Mustafa
(in all WPs) Additional Government Pleader
(Puducherry)

C O M M O N O R D E R

The lis on hand has been instituted questioning the validity of the order impugned passed by the Government of Puducherry on 29.10.2014. The order impugned reveals that the Aided Schools / petitioners shall remit 5% of the pension and terminal benefits shown in the impugned order, immediately, to the respondents as per the provisions of the Puducherry School Education Act and Rules.

2. Challenging the said order, the petitioners / Aided Schools contended that the respondents are not paying the maintenance and other grants due to the petitioners' institution and inspite of that the petitioners are paying salary to the approved and unapproved staffs. Therefore, the institutions, in



the event of settling the other grants will be in a position to pay the pension contribution as per the provisions of the Act and Rules.

3. Dr.Fr.A.Xavier Arulraj, learned senior counsel appearing on behalf of the petitioners reiterated that the institutions are running with great difficulties and they are not collecting exorbitant fees from the students after the year 2017. The learned senior counsel would also contend that they are bound to follow the recommendations of the Fee determination committee and therefore they are maintaining the accounts and other details.

4. The learned senior counsel drew the attention of this Court with reference to the representation submitted by the petitioners to the respondents to consider these aspects and release the maintenance grant due to the petitioners and the details of the dues are also elaborated in the representations. In spite of several representations, there was no response from the respondents and thus the petitioners are constrained to move the present Writ Petitions.

5. It is further contended that the 5% contribution from the Aided Schools were not demanded for many years and all of a sudden the impugned order has been passed.

6. Mr.R.Syed Mustafa, learned Additional Government Pleader appearing on behalf of the respondents / Government of Puducherry disputed the contentions raised on behalf of the petitioners by stating that the aided minority institutions and other Aided Institutions are covered under the provisions of the Puducherry School Education Act and Puducherry School Education Rules. Section 15(1) of the Act enumerates that "The Government may grant aid to recognised schools such sums of money and for such purposes as may be prescribed".

7. Sub-section (2) of Section 15 of the Act contemplates as follows:

"The Government may withhold permanently or for any specified period the whole or part or any aid referred to sub-section (1) in respect of any private schools:-

(a) Which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private schools, or

(b) in respect of which the pay and allowances payable to any teacher or other persons employed in such private school are not paid to such teacher or



other person in accordance with the provisions of this Act or the Rules made thereunder, or

(c) which contravenes or fails to comply with any such conditions as may be prescribed.

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8. However, before invoking sub-section (1) and (2) of Section 15 of the Act, the authorities must provide an opportunity to the institutions concerned.

9. Section 15 of the Puducherry School Education Act, 1987 and the Puducherry School Education Rules, more specifically, Rule 32, 33 and 34 contemplates procedures. Therefore, it is not as if the Government has to settle the grants in the absence of proper response from the Aided Institutions in furnishing the accounts detail and payment of their contribution as per the provisions of the Act and Rules.

10. The learned Additional Government Pleader contended that the petitioners are defaulters in respect of payment of their contribution of 5% towards pension and therefore they have no right to claim the relief in the present Writ Petitions.

11. It is further stated that the petitioners' institutions and some other Aided Institutions are not furnishing the accounts and audited statements to the Government enabling them to consider further release of grant in accordance with the provisions of the Act and Rules. The learned Additional Government Pleader has stated that all along, the Government is honouring its commitment even in the absence of furnishing all those relevant details and documents and the salary of the teachers are being paid through ECS.

12. The learned senior counsel appearing on behalf of the petitioners disputed the contention of the Additional Government Pleader by stating that the Government is not paying all the grants. However, the learned Additional Government Pleader for the Government of Puducherry reiterates that even for the grants paid they have not received any accounts detail or audited statements from the Aided Schools. In the absence of furnishing of such details, the Government is empowered to invoke section 15 of the Puducherry School Education Act.

13. It is needless to state that for the purpose of availing the grant, the Aided Schools are bound to perform their obligations enabling the Government to settle the grants in accordance with the procedures contemplated. At the outset, it is the mutual obligation between the parties and once the public money is paid by way of grant to these institutions, the institutions are accountable for such tax payer's money and they are bound to furnish the statement of accounts and all relevant



14. It is not as if the tax payer's money can be paid by way of grants without any accounting details. Any money spent by the Government has to be accounted for and audited and the authorities are accountable. Therefore, even for the grants granted to the Aided Institutions, the Government Authorities are bound to maintain the accounts and it is not as if they can go on releasing the grant without receiving any accounts detail from the institutions. Such a practice can never been adopted by the authorities and the institutions which all are receiving grants are also bound to follow the provisions of the Act and Rules and accountable for the grants they have received from the Government, which is tax payer's money.

16. The learned Additional Government Pleader further contended that these Aided Institutions are collecting fees from the students. The fees is being regulated only with effect from the year 2017 by the Committee till such time the schools were receiving considerable fees from the students. Therefore, for the grants already settled in favour of the institutions, the institutions are liable to furnish accounts detail enabling the authorities to scrutinize the same in the manner known to law.

18. This apart, the order impugned furnishes the details of the pensioners, who worked in the petitioners' institution and therefore, the petitioners are bound to pay their contribution for the teachers who worked for many number of years. When the names of the teachers and staff members are mentioned in clear terms in the impugned order, the petitioners are bound to settle their contribution payable to the retired employees under the



provisions of the Act and Rules.

19. Thus, the petitioners have not established any case for the purpose of interfering with the order impugned and accordingly, the Writ Petitions stand dismissed. Consequently, connected Miscellaneous Petitions are also closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

shr/kan

To

1.The Secretary
The Union territory of Puducherry
Department of School Education
Secretariate, Puducherry – 605 001.

2.The Director of School Education,
Government of Puducherry
Directorate of School Education
Puducherry – 605 005

3.The Senior Accounts Officer
Government of Puducherry
Directorate of School Education
Puducherry – 605 005

+6ccs to Mr.Father Xavier Association, Advocate, S.R.No.62752
+1cc to the Government Pleader,Puducherry S.R.No.62802

W.P.Nos.1035 to 1040 of 2015 and
M.P.Nos.2 of 2015 (6)

PM(CO)
CT 09/12/2021