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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.27406 of 2013
and
M.P.Nos.1, 2 & 3 of 2013

Mercy Home
Rep. by its Director
Louis Rayan
Nazarathur Sogathur Cross Road,
Dharamapuri - 636809..

... Petitioner

Vs.

1. The Government of Tamil Nadu
Rep.by its Secretary,
Special Welfare and Noon Meals
Scheme Department,
Secretariat, Fort St. George,
Chennai - 600009.
2. The Government of Tamil Nadu
Rep.by its Secretary,
Differently Disabled Department,
Secretariat, Fort St. George,
Chennai - 600009.
3. The State Commissioner for
Differently Disabled
K.K.Nagar, Chennai - 600 078.
4. The District Differently Disabled
Welfare Officer,
Dharmapuri.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records order passed by the 3rd Responden in Roc.No.5241/ST1/2013 dated 20.08.2013 and 21.08.2013 and consequential order passed by the 4th Respondent in Na.Ka.No.2004/A/2012 dated 13.09.2013 and quash the same.

For Petitioner : Mr.S.Parthasarathy

For Respondents : No Appearance.



O R D E R

The order impugned dated 20.08.2013 and 21.08.2013 passed by the 3rd respondent and the consequential order passed by the 4th respondent dated 13.09.2013 are under challenge in the present Writ Petition.

2. The order impugned dated 20.08.2013 states that on verification of records certain discrepancies were found in the petitioner's home and the details of the children were missing. Only 7 children are shown as partial blind and remaining 12 children are shown as having night blindness and one eyed and these children will not come under children with visual impaired.

3. The authorities formed an opinion that in the absence of required number of students and failure on the part of the petitioner to submit complete address list of students along with NIDC details and based on the inspection report of DDAWO, Dharmapuri, it is found that EIC - VI did not function in Dharmapuri. Accordingly, the amounts sanctioned was sought to be recovered.

4. The consequential impugned order dated 21.08.2013 is a show cause notice issued under Sub-section (1-C) of Section 53 of the Persons with Disabilities Act, 1995. The show cause notice states that why the registration of the petitioner's home should not be revoked under Sub-section (1) of Section 53 of the Persons with Disabilities Act, 1995, for non implementation of the centre and for misappropriation funds allotted by the Government.

5. The petitioner submitted their explanation on 03.09.2013 and on subsequent dates. However, before authorities considering the explanation the Writ Petition is filed. Even during the pendency of the Writ Petition, this Court passed an order on 12.09.2018, directing the 3rd respondent to submit a report by conducting an inquiry.

6. The said report of the Commissioner for Welfare of the Differently Abled, reveals that pursuant to the directions an Inquiry Committee was constituted and the said Committee conducted an inquiry and submitted a report, which reveals the following facts:-

"The above said Enquiry Committee constituted by the third respondent inspected the petitioner's institution on 29.10.2018. The committee was also accompanied by the District Differently Abled Welfare Officer, Dharmapuri



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District and Village Administrative Officer, Dharmapuri. The findings of the Enquiry Committee are as follows:-

1. Only three registers were submitted for inspection.

- i. Students' attendance register.
- ii. School admission register.
- iii. Teachers' attendance register.

2. Even after prior intimation to the institution, which the petitioner has acknowledged, the Director of the institution was not present during inspection.

3. Only the Co-ordinator of the institution was present during the inspection.

4. In the register submitted for enquiry it was found that 17 students studied in the institution. During the year 2012-2013, all these 17 students were above the age of 6 years. The Early Intervention Centre for Visually impaired scheme was intended for benefiting children who are in the age group of 0 - 6 years. Hence, all the above said 17 beneficiaries are ineligible for the benefits given under this scheme.

5. During the previous inspection carried out by the District Differently Abled Welfare Officer, Dharmapuri District also, the students said to have studied in the petitioner's institution were found to have studied in various other schools and the respective Head Masters of those schools have also submitted their letters in this respect.

6. The enquiry committee visited the house of one of the said beneficiary Salammal, where her parents said that during 2012-2013 she studied in Mercy Home for few months.

Hence, the enquiry committee concluded that;

1. The institution has run the programme with students above the age of 6 years which is in violation of the rules prescribed for the scheme.

2. As other school Head Masters have given letters that the same beneficiaries studied in their schools, it is not possible for the same student to have studied in two schools simultaneously.

3. Therefore, the grant amount sanctioned to the institution should be recovered.

The enquiry committee report along with the submission of Thiru. Munusamy, Co-ordinator of



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the Petitioner's institution and other documents are herewith enclosed for submitting before the Hon'ble High Court.

Therefore, as submitted in the earlier enquiry committee report dated 28.09.2018, the petitioner is bound to remit Rs.4,48,500/- (Rupees Four lakh, fourty eight thousand and five hundred only) to the Government account.

Hence, I request you to kindly submit the enquiry report which is enclosed and above facts before the Hon'ble High Court as directed by its order dated 04.10.2018."

7. The learned counsel for the petitioner made a submission that the authorities have not considered the medical report of the students and the explanations submitted by the Writ Petitioner. However, taking into consideration the grounds raised by the petitioner, this Court, during the pendency of the Writ Petition, directed the authorities to constitute a committee and conduct an enquiry. Accordingly, a committee was constituted by the Commissioner for Welfare of Differently Abled and report was also communicated. The petitioner had also submitted their documents and gave statements.

8. This being the factum, the Writ Petition now filed challenging the recovery order and show cause notice deserves no merit consideration.

9. The counter affidavit filed by the respondents also reveals that the petitioner committed serious irregularities in maintaining the home. In view of the above, the petitioner has not established any acceptable grounds for the purpose of considering the Writ Petition.

10. With these observations, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

shr/kan



To

1. The Secretary,
The Government of Tamil Nadu
Special Welfare and Noon Meals
Scheme Department,
Secretariat, Fort St. George,
Chennai - 600009.
2. The Secretary,
The Government of Tamil Nadu
Differently Disabled Department,
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Chennai - 600009.
3. The State Commissioner for
Differently Disabled
K.K.Nagar, Chennai - 6000078.
4. The District Differently Disabled
Welfare Officer,
Dharmapuri.

Copy to:

The Village Administrative Officer,
Dharmapuri.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.63430

W.P.No.27406 of 2013
and
M.P.Nos.1, 2 & 3 of 2013

JPL (CO)
SU (15/12/2021)