

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7774 of 2021 and
W.M.P. No.8306 of 2021

St.Antony's Government Aided High School,
Represented by its Headmistress /
Correspondent Sr. Grace Arockia Mary,
C-115, Maraimalaiadigal Salai,
Puducherry - 605 001. ... Petitioner

-vs-

1. Union Territory of Puducherry
Represented by
The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry - 605 001.
2. The Secretary to Government
(School education)-cum-(Finance),
Government of Puducherry,
Chief Secretariat,
Puducherry.
3. The Director of School Education,
Directorate of School Education,
Government of Puducherry,
Puducherry.
4. The Senior Accounts Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry - 605 005.
5. Drawing and Disbursing Officer,
Government of Puducherry,
Directorate of School Educaiton,
Puducherry - 605 005. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents i) to release Staff Grant under head of Maintenance grant towards sanctioned and approved teaching and non-teaching staff working in the petitioner's school with arrears from December, 2019 till date under section 15 and 24 of the Pondicherry School Education Act, 1987 r/w.

Rule 32 (2) and (3) of the Pondicherry School Education Rules, 1996 based on Application (FORM-X) submitted by the petitioner for receiving Grant-in-Aid and also direct the respondents to pay reasonable interest for delayed payment of salary by strictly following Judgment, dated 08.02.2021 passed by the Hon'ble Apex Court in the State of Andhra Pradesh & Ors - Vs - Smt Dinavahi Lakshmi Kameswari (Civil Appeal No.399/2021), ii) to release the amount of Rs.1,55,985/- (Rupees One Lakh Fifty Five Thousand Nine Hundred and Eighty Five only) illegally withheld by them towards presumptive income while releasing 50% of Staff Grant in pursuant to ORDER vide G.O.Rt.No.50, dated 11.11.2020 issued by the Under Secretary to Government (School Education), Government of Puducherry and iii) also direct the respondents to reimburse the Tuition Fee collected from the petitioner after the Puducherry School Education (Amendment) Rules, 2014 came into force.

For Petitioner : Mr.Prakash Adiapadam

For Respondents: Mr.Syed Mustafa,
Special Government Pleader (P)

O R D E R

This Writ petition is filed, seeking a direction to the respondents i) to release Staff Grant under head of Maintenance grant towards sanctioned and approved teaching and non-teaching staff working in the petitioner's school with arrears from December, 2019 till date under sections 15 and 24 of the Pondicherry School Education Act, 1987 r/w. Rule 32 (2) and (3) of the Pondicherry School Education Rules, 1996 based on Application (FORM-X) submitted by the petitioner for receiving Grant-in-Aid and also direct the respondents to pay reasonable interest for delayed payment of salary by strictly following Judgment, dated 08.02.2021 passed by the Hon'ble Apex Court in the State of Andhra Pradesh & Ors - Vs - Smt Dinavahi Lakshmi Kameswari (Civil Appeal No.399/2021), ii) to release the amount of Rs.1,55,985/- (Rupees One Lakh Fifty Five Thousand Nine Hundred and Eighty Five only) illegally withheld by them towards presumptive income while releasing 50% of Staff Grant in pursuant to ORDER vide G.O.Rt.No.50, dated 11.11.2020 issued by the Under Secretary to Government (School Education), Government of Puducherry and iii) also direct the respondents to reimburse the Tuition Fee collected from the petitioner after the Puducherry School Education (Amendment) Rules, 2014 came into force.

2. Today, when the matter is taken up for hearing, Mr.Syed Mustafa, learned Special Government Pleader (Pondicherry) appearing for the respondents produced G.O.Rt.No.94, Directorate of School Education, (Secretariat Wing) Puducherry, dated

18.03.2021 and submitted that due to financial crunch they were not able to pay the amount from January 2020 till date and the Lieutenant Governor, Puducherry has taken a decision to incur an expenditure for the release of Grant-in-Aid to 35 Government Aided Private Schools in Puducherry, Karaikal and Yanam regions for the payment of pension and retirement benefits from January, 2020 to February, 2021 and the arrears of pension, which have been paid only 50 % upto February 2021, has not been revised and arrears will be credited in all respects before 31st March 2021.

3. Mr. Prakash Adiapadam, learned counsel for the petitioner would submit that the respondent has granted only interim relief and there is no whisper in the Government Order with regard to payment of monetary benefits payable in future.

4. The Petitioner-School cannot expect the Government to pay the salary of April month in the month of February, 2021. At this stage, Mr. Syed Mustafa, learned Special Government Pleader (Pondicherry) appearing for the respondents would submit that due to the present Covid situation and financial crisis, they were constrained to pay only 50% of the monetary benefits and the same will be rectified in future and the amount, including the arrears will be paid to the petitioner in future without any default. For the sake of convenience, the relevant Paragraph No.5 of the G.O.Rt.No.94, Directorate of School Education, (Secretariat Wing) Puducherry, dated 18.03.2021, is extracted hereunder:

"5. The 5% amount remitted by those schools in the last financial year i.e., in 2019-20 and which could not be reverted due to closing of the said financial year shall be adjusted by releasing 100% grant instead of releasing 95% grant to the extent of 5% amount remitted by those schools as indicated in the Annexure - I enclosed."

5. It is brought to the notice of this Court by the petitioner that even though the entire pension from January 2020 upto February, 2021 has been agreed to be paid by the Government Order, the salary from December 2019 till August 2020 has not been extended and there is no reference in the Government Order dated 18.03.2021 for payment of the salary for the said period.

6. Mr. Syed Mustafa, learned Special Government Pleader would submit that the Committee cannot go into the question of whether any monetary benefits shall be payable or not and the decision to be taken thereon will be communicated to the petitioner within a period of three months from the date of receipt of a copy of this order. In case of any grievances with regard to non payment of any amount / salary from December 2019 to August 2020, it is open to them to agitate the issue in the manner known to law.

7. The issue regarding payment of amount / salary for the period aforementioned cannot be decided at this stage. However,

taking note of the submissions of Mr.Syed Mustafa, learned Special Government Pleader (Pondicherry) that the future amounts will be paid without default, no further orders are required to be passed in this case.

8. The Writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vum

To

1. Union Territory of Puducherry
Represented by
The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry - 605 001.
2. The Secretary to Government
(School education)-cum-(Finance),
Government of Puducherry,
Chief Secretariat,
Puducherry.
3. The Director of School Education,
Directorate of School Education,
Government of Puducherry,
Puducherry.
4. The Senior Accounts Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry - 605 005.
5. Drawing and Disbursing Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry - 605 005.

+1cc to Mr.Prakash Adiapadam, Advocate SR.No.20212

+1cc to Government Pleader for Puducherry SR.No.19602

W.P.No.7774 of 2021 and
W.M.P. No.8306 of 2021

JP-II (CO)
GMY (22/04/2021)

<https://hcservices.ecourts.gov.in/hcservices/>