



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.34138 to 34142 of 2014

And

MP Nos.1, 1, 1, 1, 1, 2, 2, 2, 2 and 2 of 2014

Immaculate Heart of Mary's Girls
Higher Secondary School,
Represented by The Correspondent,
Mission Street,
Puducherry - 605 001.

.. Petitioner in WP 34138/2014

St. Antony's Government Aided High School,
Represented by The Manager,
C-115, Marai Malai Adigal Salai,
Puducherry - 605 001.

.. Petitioner in WP 34139/2014

Fathima Higher Secondary School,
Represented by The Manager,
Puducherry - 605 001.

.. Petitioner in WP 34140/2014

Nirmala Rane Girl's Higher Secondary School,
Represented by its Manager,
33, Nehru Street,
Karaikkal - 609 602.

.. Petitioner in WP 34141/2014

St. Mary's Higher Secondary School,
Represented by The Manager and
Correspondent,
Karaikkal - 609 602.

.. Petitioner in WP 34142/2014

vs.

The Union Territory of Puducherry,
Represented by its Secretary,
Department of Education,
Secretariat,
Puducherry - 605 001.

.. R-1 in all WPs



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

.. R-2 in WPs 34138,34139 &
34142/2014

WEB COPY

The Director of School Education,
"A" Block, I Floor,
Perunthalaivar Kamaraj Centenary
Educational Complex,
100 Feet Road,
Anna Nagar, Puducherry - 605 053.

.. R-2 in WPs 34140&34141/2014

The Senior Accounts Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry - 605 005.

.. R-3 in all WPs

The Chief Educational Officer,
The Office of the Chief Educational Officer,
Karaikkal.

.. R-4 in WPs 34141&34142/2014

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Certiorari, calling for the records pertaining to the proceedings dated 29.10.2014 in No.25-I/DSE/GIAS/U.III/2013-14, on the file of the third respondent and quash the same in respect of the petitioners' school.

For Petitioner in all WPs : Ms.A.Arulmary

For Respondents in all WPs : Mr.R.Syed Mustafa,
Special 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 in spite 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. The learned 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 counsel for the petitioners 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 counsel for the petitioners 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 Special 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



WEB COPY

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."

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 Special Government Pleader appearing on behalf of the respondents 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 all these 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 Special 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 counsel appearing on behalf of the petitioners disputed the contentions of the learned Special Government Pleader for the respondents, by stating that the Government is not paying all the grants. However, the learned Special 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 documents for the purpose of Government audit and for other purposes.

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.

15. In all these cases, the petitioners are also raising certain complaints against the respondents that some of the grants are yet to be released / paid. However, the learned Special Government Pleader for the respondents made a submission that grants are being paid even in the absence of furnishing accounts by the Educational Institutions and therefore unless they get proper accounts, they will not be in a position to consider the cases of the writ petitioners.

16. The learned Special Government Pleader for the respondents 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.

17. As far as the order impugned is concerned the respondents directed the petitioners to remit 5% of the pension payable to the retired employees of the Government Aided School under the provisions of the Act. The pension grant of 95% has to be paid by the Government and 5% has to be paid by the respective institutions. These being the provisions of the



WEB COPY

4. The Director of School Education,
Government of Puducherry,
Directorate of School Education,
Puducherry - 605 005.

5. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Karaikkal.

+5ccs to M/s.Father Xavier Associates, Advocate, S.R.No.66063

+1cc to the Government Pleader (Puducherry), S.R.Nos.65683, 65685

WPs 34138 to 34142 of 2014

GSM(CO)
SU(27/12/2021)