



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.23865 of 2021

and

W.M.P.Nos.25156, 25157 & 25161 of 2021

(Through Video Conferencing)

S.Kalaivani

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600009.

2. The Commissioner,
Directorate of School Education,
DPI Buildings, College Road,
Chennai - 600006.

3. The Chief Education Officer,
No.301, Collectorate Campus,
Salem - 636001.

4. The Head Master,
Govt. High School,
Thandanur Post - 636 117,
Pethanaickenpalayam Taluk,
Salem District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed in Na.Ka.No.99/10/2021 dated 20.09.2021 passed by the fourth respondent herein and quash the same as being illegal, arbitrary, unconstitutional and consequently direct the fourth respondent to disburse the petitioner's salary along with incentive increment for completion of higher qualification without any recovery for the post of Physical Education Teacher.

For Petitioner : Mr.T.Sundaravadanam

For R1 to R3 : Mr.L.S.M.Hasan Fizal, Govt. Adv.



O R D E R

This Writ Petition has been filed by the petitioner challenging the impugned order dated 20.09.2021 passed by the fourth respondent in Na.Ka.No.99/10/2021 seeking the recovery of amount from the petitioner.

2. The learned counsel for the petitioner submits that the impugned order has been passed without following the principle of natural justice and is therefore liable to be quashed.

3. Appearing on behalf of the first to third respondents, the learned Government Advocate submits that the impugned order challenged by the petitioner in this Writ Petition is a communication of the fourth respondent Head Master of the School communicating the decision in the Audit Objection, but, not an order and therefore, this Writ Petition is premature and is liable to be dismissed.

4. Based on the above submission, this Writ Petition is taken up for final disposal at the time of admission even though the impugned communication dated 20.09.2021 appears to be an order asking the petitioner to repay the amount.

5. Since the learned Government Advocate submits that the impugned order is not an order, but, only a communication, this Writ Petition is dismissed with direction to the fourth respondent to not to recover the amount from the petitioner without issuing proper show cause notice to show cause as to why the amount proposed in the impugned order should not be recovered. It is made clear that only after the petitioner replies to the show cause notice, appropriate order shall be passed. No cost. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600009.



2. The Commissioner,
Directorate of School Education,
DPI Buildings, College Road,
Chennai - 600006.

3. The Chief Education Officer,
No.301, Collectorate Campus,
Salem - 636001.

4. The Head Master,
Government High School,
Thandanur Post - 636 117,
Pethanaickenpalayam Taluk,
Salem District.

+1cc to M/s.T.Sundaravadanam, Advocate, S.R.No.57250

W.P.No.23865 of 2021
and
W.M.P.Nos.25156, 25157
3590220& 25161 of 2021

KSM(CO)
SU(29/11/2021)