



W.P. No.31911 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.31911 of 2012

and

M.P.Nos.1 & 2 of 2012

M/s.St.John Special School for
Mental Retardation,
Rep by its Correspondent,
Mr.A.Jayachandran
Ashokapuri Post,
Villupuram Taluk and District,
Tamil Nadu.

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep by its Secretary,
Social Welfare and Noon Meals
Scheme Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Government of Tamil Nadu,
Rep by its Secretary,
The Secretary for Differently Disabled Department,
Secretariat, Fort St.George,
Chennai – 600 009.



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3.The State Commissioner for Differently Abled,
K.K.Nagar, Chennai – 600 078.

4.The District Differently Abled
Welfare Officer,
Villupuram.

5.The District Differently Abled
Welfare Officer,
Cuddalore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of Recovery passed by 3rd respondent in Order No.5032/Ma.The.Na.2-1/2008 dated 10.09.2012 and consequential order dated 16.10.2012 in Order No.3826/Ma.The.Na.2-1/2011 passed by the 3rd respondent and quash the same and further direct the 3rd respondent to disburse with the sanctioned salary aid of Rs.1,80,000/- to the petitioner's School for the year 2011-2012.

For Petitioner : Mr.S.Parthasarathy

For Respondents :Ms.S.Anitha
Special Government Pleader
for R1 & R5
No Appearance for R2 to R4

ORDER

The petitioner has challenged the impugned order passed by the third respondent, the State Commissioner for Differently Abled in his proceedings



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dated 10.09.2012 and consequential order dated 16.10.2012. By the impugned order, the petitioner has been called upon to refund the amount of Rs.5,00,000/- advance given to the petitioner in terms of G.O.(Ms).No.62, Social Welfare and Nutritious Meal Programme (SW.4) Department dated 31.03.2009.

2.As per the aforesaid Government Order, the government has sanctioned an amount of Rs.2 Crores for release of fund for non-governmental organizations running institutions for the welfare of Mentally Retarded Persons to meet the expenditures involved in rent, feeding charges and construction of new building/extension of buildings.

3. It contains further stipulation, which reads as under:

“The Non Governmental organizations mentioned in the Annexure to this letter are hereby informed that the amount for the New Building/extension of the building should be utilized using a Joint Account and hence, you are requested to open a new account in the name of the Non Governmental Organization and in the designation of the District Disabled Rehabilitation Officer of the concerned District and inform the same to the State Commissioner for the Disabled for the release of funds.

It is also informed that the funds earmarked for the Construction/extension of the buildings shall be released in three stages. Rs.2 lakhs shall be released as first installment to the concerned NGO to take up basement



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work. Another Rs.2 lakhs shall be released to raise the building up to lintel level and the balance of Rs.1 lakh for the completion of the construction.”

4.It is the specific case of the respondents that the grant under the aforesaid Government Order is available only in case where there is a fresh construction, whereas, in the facts of the present case, the construction was put up as early as on 1997 which was earlier leased out to the Tamil Nadu Electricity Board and therefore, the petitioner has played fraud on the respondents in seeking the sanction on 11.09.2009.

5.In the counter filed in support of the impugned order, it is submitted that the fourth respondent, the District Differently Abled Welfare Officer had wrongly recommended the case of the petitioner for grant of the aforesaid grant for constructing new class room in the existing vacant land in the school premises by sending false report to the Government.

6.It is further submitted that appropriate action has been taken against the fourth respondent and that the said officer is under suspension. It is submitted that the fourth respondent and the petitioner conspired together and thereby cornered a grant from the Government by showing as if a new building was



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being constructed in place of the old building, whereas, the old building was in existence for at least ten years and that the said building was earlier leased out to the Tamil Nadu Electricity Board. Hence, the amount has to be recovered.

7.The learned counsel for the petitioner by way of rejoinder submits that no fraud has been committed by the petitioner while securing the loan. It is further submitted that the impugned order has been passed without giving any opportunity either show cause as to why the amount should not be recovered from the petitioner. Hence, it is prayed the writ petition be allowed.

8.However, the facts on record seems to indicates that the grant was available to the petitioner was confine only for expenditure involved for rent, feeding charges and construction of new building/extension of buildings. The application dated 19.01.2019 filed by the petitioner was for putting up additional constructions. However, the 4th respondent has wrongly recommended the grant to the petitioner on 30.03.2010 vide proceeding bearing reference Se.Mu.No.2816/2009. The petitioner was informed to the 4th respondent an amount of Rs.3,00,000/-will be sanctioned initially and thereafter sanctioned another sum of Rs.2,00,000/-.



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9.A reading of the impugned order passed by the 3rd respondent/ The State Commissioner for Differently Abled indicates that order has been passed without giving opportunity to the petitioner for being heard. The grant is also for paying rent and for feeding inmates etc. Though, there was suppression by the petitioner, the 3rd respondent may consider if any amount could have be granted to the petitioner towards feeding charges.

10.Considering the above, the impugned order is quashed and remitted the case back to the respondents to pass a fresh order on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. All the issues are left open to the petitioner to decide by the 3rd respondent. The petitioner is entitled to make additional submissions, if any, before the 3rd respondent in the aforesaid proceedings.

11.Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/ No
Internet: Yes/No
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C. SARAVANAN, J.

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