



W.P.Nos.8150 of 2014 & 29873 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.8150 of 2014 & 29873 of 2015

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

... Petitioner in both W.Ps

Vs

1.The Government of Tamil Nadu,
Represented by its Secretary,
The Secretary for Differently
Abled Department,
Secretariat, For St. George,
Chennai - 600 009.

2.The State Commissioner for
Differently Abled,
K.K.Nagar, Chennai - 600 078.

3.The District Differently Abled
Welfare Officer,
Villupuram.

... Respondents in both W.Ps



W.P.Nos.8150 of 2014 & 29873 of 2015

Prayer in W.P.No.8150 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay the food aid and teacher salary to the petitioner School for the year 2012-2013 and 2013-2014 within the stipulated period as fixed by this Court.

Prayer in W.P.No.29873 of 2015: 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 passed by the second respondent in Na.Ka.No.2513/Ma.The.Na.2-1/2014 dated 17.08.2015 and quash the same and further direct the respondents to pay the food aid and teacher aid to the petitioner School for the year 2014-2015 with the interest within the stipulated period as fixed by this Court.

For Petitioner : Mr.S.Parthasarathy
(In both W.Ps)

For Respondents : Mr.S.Arumugam
(In both W.Ps) Government Advocate

COMMON ORDER

W.P.No.8150 of 2014 has been filed for a Mandamus, to direct the respondents to pay the food aid and teacher salary to the petitioner School for the year 2012-2013 and 2013-2014 within the stipulated period.



W.P.Nos.8150 of 2014 & 29873 of 2015

WEB COPY

2. W.P.No.29873 of 2015 has been filed for a Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in Na.Ka.No.2513/Ma.Thi.Na 2-1/2014 dated 17.08.2015 and to quash the same and further direct the respondents to pay the food aid teacher aid to the petitioner School for the year 2014-2015 with interest within the stipulated period.

3. The respondents in their counter affidavit have stated that, pursuant to the directions of this Court in the earlier round of writ petition, the petitioner Institution was inspected and enquiry was conducted in presence of the petitioner on 03.08.2012. During which, the petitioner has himself given a submission in writing that the School building was constructed in the year 1997 and the building was given on rent to the Tamil Nadu Electricity Board from 2000 to 2008.

4. In the counter affidavit, it is stated that the order of Commissioner, restraining the payment of Teachers Salary grant of Rs.1.80 lakhs with the condition that only on repayment of Rs.5.00 lakhs with interest were issued after verification of all the records on receipt of



W.P.Nos.8150 of 2014 & 29873 of 2015

the submission of the petitioner himself and this was done with an intention to protect the interest of the Government. It is further stated that the very purpose of the aid was misused and defeated by the petitioner in a preplanned manner with willful intention to defeat the Government funds.

5. Hence, it is prayed that the petitioner's Institution is liable to be blacklisted for misappropriation of the Government funds. It is further submitted final orders are to be passed pursuant to the order of this Court in W.P.No.31911 of 2012. Therefore, the respondents are not in a position to sanction any further grand-in-aid to the petitioner's Institution.

6. In W.P.No.31911 of 2012, the petitioner had sought for refund a sum of Rs.5,00,000/-. The issue has been remitted back with the following observations:-

"The petitioner has challenged the impugned order passed by the third respondent, the State Commissioner for Differently Abled in his proceedings dated 10.09.2012 and consequential order dated 16.10.2012. By the impugned order, the petitioner has



WEB COPY



W.P.Nos.8150 of 2014 & 29873 of 2015

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 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.”



WEB COPY



W.P.Nos.8150 of 2014 & 29873 of 2015

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 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/-.

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."



W.P.Nos.8150 of 2014 & 29873 of 2015

WEB COPY

7. These writ petitions deal with the amount payable by the petitioner towards food aid and teachers salary payable to the teachers. According to the petitioner, the petitioner is entitled to a sum of Rs.7,48,800/- in terms of G.O.No.120 dated 14.12.2012 and in terms of G.O.No.117 dated 04.12.2012.

8. Considering the fact that the issue in W.P.No.31911 of 2012 has been remitted back, these two writ petitions are also disposed by directing the second respondent to pass appropriate orders afresh along with the order to be passed pursuant to the order passed in W.P.No.31911 of 2012. This exercise may be carried out by the second respondent, within a period of six weeks from the date of receipt of a copy of this order.

9. These Writ Petitions stand disposed of with the above observations. No costs.

14.10.2022

Index : Yes/ No
Speaking/Non-Speaking Order
arb



W.P.Nos.8150 of 2014 & 29873 of 2015

WEB COPY

To

- 1.The Secretary,
Government of Tamil Nadu,
The Secretary for Differently
Able Department,
Secretariat, For St. George,
Chennai - 600 009.
- 2.The State Commissioner for
Differently Able,
K.K.Nagar, Chennai - 600 078.
- 3.The District Differently Able
Welfare Officer,
Villupuram.



WEB COPY



W.P.Nos.8150 of 2014 & 29873 of 2015

C.SARAVANAN, J.

arb

W.P.Nos.8150 of 2014 & 29873 of 2015

14.10.2022