



WEB COPY



W.A.No.2535 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM

The Hon'ble Mr. Justice PARESH UPADHYAY
and
The Hon'ble Mr. Justice D.BHARATHA CHAKRAVARTHY

W.A.No.2535 of 2022
and C.M.P. No.19946 of 2022

- 1.The State of Tamil Nadu
rep. By its Secretary,
Education Department,
Fort St. George, Chennai – 9.
- 2.The Director,
Elementary Education,
D.P.I. Compound, College Road,
Chennai – 6.
- 3.The Chief Educational Officer,
Nephel Street, Kallakuruchi,
Tamil Nadu – 606 202.
- 4.The District Educational Officer,
Nephel Street, Kallakuruchi,
Tamil Nadu – 606 202.
- 5.Block Educational Officer,
Katchirayapalayam Road,
Near RDO Office, Kallakuruchi,
Tamil Nadu – 606 202.
- 6.The Headmaster,
Panchayat Union Elementary School,
Mohur, Kallakurichi,
Tamil Nadu – 606 202.

.. Appellants



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VS

N.Lucky Jawaharlal Nehru

.. Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 08.10.2021 made in W.P.No.21803 of 2021.

For Appellants : Mr.S.Silambanan,
Additional Advocate General
assisted by
Mr.Abhishek Moorthy,
Government Advocate

For Respondent : Mr.C.Johnson

JUDGMENT
(Delivered by PARESH UPADHYAY.,J)

1. Challenge in this appeal is made to the order dated 08.10.2021 recorded on W.P.No.21803 of 2021. This appeal is by the State Authorities – respondents in the writ petition.

2. Learned Additional Advocate General for the appellant has submitted that, the order passed by learned Single Judge is erroneous and the relief granted to the writ petitioner needs to be interfered with. It is noted that, learned Additional Advocate General has taken this Court through the findings recorded by learned Single



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Judge and has submitted that this appeal be entertained.

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3. On the other hand, learned advocate for the respondent / original writ petitioner has submitted that, not only no interference needs to be made in the order under challenge, the State Authorities have taken different stand before learned Single Judge as recorded in the orders dated 03.08.2022 and 12.08.2022 in Contempt Petition No.1420 of 2022 that the order under challenge shall be complied with. It is submitted that, this appeal be dismissed.

4. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds as under:-

4.1 The order impugned in the writ petition was ordering recovery from the writ petitioner. Before passing such an order, no notice was issued to the writ petitioner. From record it transpires that, ostensibly an attempt was made to show that notice was issued, however the date of service of the notice and date of impugned order, both are same as mentioned in para : 3 of the order under challenge in this appeal.



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4.2 We find that, the compliance with the principles of natural justice is not an empty formality as was attempted by the State in this case. Independent of that also we find that, learned Single Judge has noted that, withdrawal of the benefit already granted and ordering consequential recovery both are unsustainable, however liberty was reserved to the State to pass appropriate order on merits after hearing the writ petitioner. We find prima facie that, even if that option, in the facts of the case, is not given to the State, that can not be termed to be erroneous, however in the appeal filed by the State, that aspect need not be stretched that far against the State. Suffice it to note that, the impugned order of learned Single Judge setting aside the recovery, under no circumstances, can be said to be an error and therefore no interference is required. This appeal therefore needs to be dismissed.

4.3 We also take note of the observations made by learned Single Judge in the order dated 12.08.2022 which refers to the aspect that not filing appeal and also not complying the with order, is no less than contemptuous attitude on the part of the State Authorities.



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We are in full agreement with those observations. We do not intend to elaborate this aspect leaving it to the learned Single Judge to do needful in that regard.

5. For the reasons recorded above, this appeal is dismissed.

No costs. C.M.P. No.19946 of 2022 would not survive.

(P.U., J) (D.B.C., J)
17.11.2022

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