



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.9795 of 2020
and
W.M.P.(MD) No.8792 of 2020

K.Seenivasan

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Tirunelveli District, Tirunelveli. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order issued by the 3rd respondent Chief Educational Officer in Na.Ka.No.1726/E1/2019 dated 18.05.2020 quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

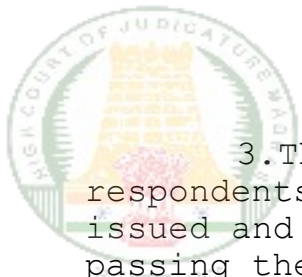
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

O R D E R

The order impugned pertaining to recovery of excess of pay issued in proceedings dated 18.05.2020 by the 3rd respondent is under challenge in the present writ petition.

2.The learned counsel for the petitioner made a submission that no show cause notice was issued to the petitioner before issuing the order of recovery.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The learned Additional Government Pleader appearing for the respondents is unable to establish that a show cause notice was issued and an opportunity was provided to the writ petitioner before passing the impugned order of recovery.

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4.This Court is of the considered opinion that any order, affecting the right of an employee, must be issued only after providing opportunity to the employee concerned. Thus, the order impugned in the present case is in violation of the principles of natural justice.

5.Regarding fixation, if any error occurs, the competent authority is empowered to correct such errors and fix the pay in accordance with the rules or the Government Orders in force. However, if the matter of recovery comes, then an opportunity is to be provided to the aggrieved parties.

6.In view of the facts and circumstances, the order impugned issued by the 3rd respondent in Na.Ka.No.1726/E1/2019 dated 18.05.2020 is quashed and the matter is remanded back to the 3rd respondent for issuing show cause notice to the petitioner setting out all facts and details within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioner is at liberty to submit his explanations/objections, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the 3rd respondent is directed to consider the explanations/objections, if any, submitted by the petitioner and take a decision and pass appropriate orders on merits and in accordance with law as expeditiously as possible.

7.Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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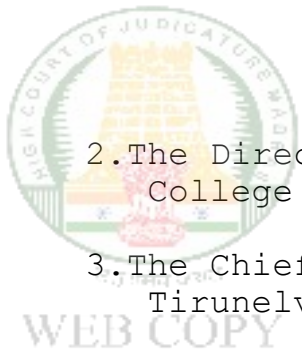
Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
The State of Tamil Nadu,
Department of School Education,
Esplanade, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices>



2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Tirunelveli District, Tirunelveli.

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