



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5866 of 2019
and
WMP (MD) No.4694 of 2019

P.Maheswari ... Petitioner
Vs.

- 1.The Chief Educational Officer,
Theni District.
- 2.The District Educational Officer,
Periyakulam,
Theni District.
- 3.The Regional Accounts Officer,
School Education Department,
Madurai 625 002.
- 4.The Headmaster,
Government Higher Secondary School,
Thamaraikulam,
Periyakulam,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders of the 1st respondent in Moo.Mu No.335/2018, dated 18.12.2018, Moo.Mu No.335/2018, dated 18.12.2018 and Na.Ka.No.16/2019 dated 27.02.2019 quash the same and consequently forbearing the respondents herein from making any recovery by virtue of guidelines issued by the Hon'ble Supreme Court in CA No.11527 of 2014 (SLP (C) No.11684 of 2012, dated 18.12.2014 as well as G.O.Ms.No.286 dated 28.08.2018.

For Petitioner :Mr.K.Appadurai

For R1, R2 & R4 :Mr.G.V.Vairam Santhosh
Additional Government Pleader

For R3 :Mr.P.Gunasekaran



O R D E R

The order of recovery and the consequential rejection orders passed by the respondents are under challenge in the present writ petition.

2. The petitioner was holding the post of P.G.Assistant, Chemistry and an excessive incentive increment was sanctioned. Thus, the audit party raised an objection and based on the said objection, the impugned order of recovery has been issued.

3. The learned counsel appearing on behalf of the petitioner made a submission that no show cause notice was issued to the writ petitioner enabling him to defend his case. Thus, the order impugned is in violation of principles of natural justice.

4. The learned Additional Government Pleader appearing on behalf of the respondents is unable to establish that a show cause notice was issued to the writ petitioner and an opportunity was given. In the absence of any show cause notice and opportunity, the order impugned order is in violation of principles of natural justice and thus it is to be remanded back for reconsideration.

5. Accordingly, the order impugned and the consequential order passed by the respondent in proceedings Moo.Mu No.335/2018, dated 18.12.2018, Moo.Mu No.335/2018, dated 18.12.2018 and Na.Ka.No.16/2019 dated 27.02.2019 are quashed and the first respondent is directed to issue a show cause notice setting out all the details to the writ petitioner 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 directed to submit her explanation / objection along with the documents, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice and thereafter, the authority competent shall decide the issues on merits and pass final orders as expeditiously as possible.

6. With these directions, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK



To

- 1.The Chief Educational Officer,
Theni District.
- 2.The District Educational Officer,
Periyakulam,
Theni District.
- 3.The Regional Accounts Officer,
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- 4.The Headmaster,
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Periyakulam,
Theni District.

+1 CC to M/s.K.APPADURAI, Advocate (SR-5509[F] dated 11/02/2022)

+1 CC to M/s.SPL GP (SR-5912[F] dated 14/02/2022)

W.P. (MD) No.5866 of 2019

10.02.2022

MGJ(22.02.2022) 3P 7C