



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.23951 of 2019

and

WMP (MD)Nos.20561 and 20563 of 2019

P.Lourdu Prabha

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 006.

2.The Director of Elementary Education,
College Road, Chennai - 600 009.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli.

4.The Block Educational Officer,
Ambasamuthiram,
Tirunelveli

5.The Correspondent,
St.Xavier's Middle School,
Irudhayakulam,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the 4th respondent Block Educational Officer in Na.Ka.No.872/A2/2017, dated 23.10.2019, quash the same.

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

For R1 to R4 :Mr.G.V.Vairam Santhosh
Addl.Govt.Pleader



O R D E R

The order of recovery impugned, dated 23.10.2019, was issued without providing an opportunity to the writ petitioner, 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 writ petitioner even to defend his case. The learned Additional Government Pleader is not able to establish that a show cause notice was issued to the writ petitioner enabling him to defend his case. Thus, the impugned order is in violation of principles of natural justice.

3. Any order affecting the rights of an employee should be passed by the competent authority only after providing an opportunity to the employee concerned to defend the case. This being the basic principles to be followed, the learned counsel for the respondents in this case is unable to establish that an opportunity was given to the petitioner. Thus, the matter is to be remanded back to the authorities.

4. Accordingly, the order impugned passed by the 4th respondent in proceedings Na.Ka.No.872/A2/2017, dated 23.10.2019, is quashed. The 4th respondent is directed to issue a show cause notice to the writ petitioner setting out the facts and details, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit his objections / explanations within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the 4th respondent has to consider the explanation and the materials available on record and pass a final orders on merits and in accordance with law, as expeditiously as possible.

5. The Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK



To

1.The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 600 006.

2.The Director of Elementary Education,
College Road, Chennai - 600 009.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli.

4.The Block Educational Officer,
Ambasamuthiram,
Tirunelveli.

+1 CC to M/s.SPL GP (SR-9761[F] dated 03/03/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-9825[F] dated
03/03/2022)

W.P. (MD) No.23951 of 2019
02.03.2022

RD(15.03.2022) 3P 7C