



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos. 25116 of 2019

K.Packianathan,
B.T.Assistant,
St.Xaviers Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Petitioner

Vs.

1. The Director of School Education,
College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
3. The District Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The Correspondent,
St.Xaviers Higher Secondary School,
Palayamkottai,
Tirunelveli 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 proceedings in Na.Ka.No.396/A2/2019 dated 01.04.2019 of the third respondent herein and quash the same and consequently direct the respondents herein to award incentive increment for the M.Phil degree with effect from the date of passing of the said degree to the petitioner herein with attended benefits.

For Petitioner	:	Mr.T.Pon Ramjumar
For Respondents	:	Mr.G.V.Vairam Santhosh
		Addl. Govt. Pleader for R1 to R3
		No appearance for R4

**O R D E R**

The communication dated 01.04.2019 asking the petitioner to furnish further particulars with reference to the permission sought for to acquire additional educational qualification is under challenge in the present Writ Petition.

2. The learned counsel appearing for the petitioner reiterated that the petitioner with caution submitted his application in advance to the Competent Educational Authorities which was forwarded by the Correspondent of the School and the Authorities have failed to take any action. Thereafter, the third respondent have forwarded the same to the Director and no order was passed. Therefore, the learned counsel for the petitioner states that as per G.O.Ms.No.200, Personnel and Administrative Reforms (A) Department dated 19.04.1996, it is deemed to be a permission.

3. This Court is of the considered opinion that the said Government Order issued in G.O.Ms.No.200 cannot be applied as it is a general instruction given to the Authorities and time limit fixed in such instructions cannot be construed as mandatory and it is only directory. Therefore, there is no deemed permission as contended by the petitioner. The Government instructions are issued for the Authorities to follow the same. Any time limit fixed in such instructions are always to be construed as directory and cannot be treated as mandatory so as to confer a service right on the employees. Even the Hon'ble Supreme Court, in clear terms, held that the time limit fixed in certain statutes to complete the enquiry is directory and not mandatory. Further, the Personnel and Administration Reforms Department generally issued such instructions to all the Departments. However, in Educational Department, the question of grant of incentive increment arises, more specifically, financial implications and therefore, such permission is certainly required for grant of certain monetary benefits. When the grant of monetary benefits is involved, then the Government is competent to prescribe certain procedures for such benefits. Thus, the Government Order relied on is of no avail to the writ petitioner.

4. The learned counsel for the petitioner further contended that the School Committee has already granted permission and such permission is sufficient enough to grant incentive increment to the writ petitioner. The School is being the private aided school controlled by the Educational Department. Therefore, all the actions of the School Committee or administration are to be verified by the Competent Educational Authorities, whenever monetary benefits are made from the tax payers. Whenever implications have involved from the State Exchequer, the State under the Constitution have got



powers to control and regulate the said monetary implications. When the Constitution requires a State to meet the expenditures in a reasonable manner and to protect the interest of public at large, the Government is empowered to inspect, control, regulate and grant of monetary benefits to the private aided school and other private institutions approved by the Government or otherwise.

5. Even presuming that if no such control is exercised by the Government, there is a possibility that every such private management may involve in such irregular or illegal activities for the purpose of getting monetary benefits from the Government. That is the reason why the Act contemplates certain procedures for grant of monetary benefits to the institution and to the teachers. Therefore, the sovereign power of the State to regulate the tax payers money in the interest of public under the Constitution can never be questioned by the private institutions. The private institutions may manipulate the records and there is a possibility to do so. That exactly is the reason why such prior permissions are contemplated under the Statutes and in Government Orders. The various possible irregularities are taught by the law makers so as to ensure that the monetary benefits from the State exchequer has been granted in genuine manner to the institutions and the persons who all are eligible for such monetary benefits. Therefore, the petitioner cannot question that the prior permission of the School Committee is sufficient enough for grant of incentive increment. When the incentive increment is being paid from the tax payers money, the Government has got powers under the constitution to regulate the same and only if the Teacher satisfies the conditions stipulated by the Government for grant of incentive increment, then alone such increments are to be granted, but not otherwise.

6. In the present case, the petitioner states that he submitted an application. However, no prior permission was granted by the Competent Educational Authorities. The petitioner states that the School Committee has granted permission. However, this Court is of the opinion that such permission may not be sufficient for the purpose of grant of monetary benefits from the Government funds. However, the fact remains that the respondents have asked the petitioner to furnish further particulars regarding the qualification acquired by him. Therefore, such an order would not provide a cause for the petitioner to file the present Writ Petition. The said order which is under challenge cannot be construed as an order warranting an interference as the petitioner is at liberty to submit all the details and particulars to the Authorities Competent for the purpose of consideration. Thus, the petitioner is at liberty to furnish all the particulars to the Competent Authorities and the Authorities shall consider the same and take a decision as expeditiously as possible.



7. Accordingly, the Writ Petition is disposed of. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

To

1. The Director of School Education,
College Road,
Chennai - 600 006.

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

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

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-13559[F] dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13942[F] dated 23/03/2022)

W.P. (MD) Nos. 25116 of 2019
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SB(CO)

KB(18.04.2022) 4P 6C