



W.P.No.7776 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7776 of 2020

and

W.M.P.Nos.9165 and 9166 of 2020 and 1325 of 2021

Solai Aided Primary School,
Siluppanur,
Sendurai Block,
Ariyalur District,
Represented by its Correspondent,
G.Amodhanambal,
W/o.Govindasamy (late).

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Ariyalur District,
Ariyalur.
3. The District Educational Officer,
Sendurai Educational District,
Ariyalur District.



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4. The Block Educational Officer,
Sendurai Block,
Ariyalur 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 order issued by the third respondent in Na.Ka.No.917/2019 dated 20.04.2020 and to quash the same.

For Petitioner : Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The impugned order passed by the third respondent vide proceedings in Na.Ka.No.917/2019 dated 20.04.2020, is under challenge in the present Writ Petition.

2. The learned Senior Counsel appearing for the petitioner would submit that the petitioner School is an aided school and is in existence for



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more than 100 years. While so, on the grounds indicated in the impugned order that the School Committee has not been renewed, approval has not been obtained for the suspension of a teacher and that subsistence allowance has not been paid to the suspended teacher, the third respondent has ordered direct payment against the petitioner School.

3. The learned Senior Counsel further submitted that this Court has already granted interim stay of the impugned order on 28.05.2020 and the subsistence allowance was also paid to the said suspended teacher and in respect of renewal of School committee, approval of the renewed school committee sent by the petitioner School on 09.12.2017 is pending with the authority. Learned Senior Counsel further submitted that the interim order is still in force and hence, this Court may remand the matter back to the third respondent for fresh consideration for taking decision for approval of the School Committee.



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4. The learned Additional Government Pleader appearing for the respondents would submit that the matter may be remitted back to the third respondent for fresh consideration.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. While granting interim order, this Court has observed as follows:

“2. Mr.G.Sankaran, learned counsel appearing for the petitioner, assailing the impugned order passed by the third respondent ordering direct payment to the staff of the petitioner-School, has pleaded that the third respondent has passed the impugned order illegally, against the well settled legal position laid down by this Court in the decision in Papanasam Labour Welfare Association Higher Secondary School v. Chief Educational Officer (1998 (3) CTC 753), which has been followed in umpteen decisions by this Court, holding clearly that the right to pre-decisional hearing is mandatory to



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order the direct payment against the school, which has not been followed. Secondly, he argued that when one of the school teachers, namely, Mr.S.Senguttuvan was placed under suspension by an order dated 14.10.2019, the impugned order says that no steps have been taken for payment of subsistence allowance, which is also factually incorrect. The reason being that when the said teacher Mr.Senguttuvan was placed under suspension on 14.10.2019, proposal for approval was forwarded on 15.10.2019, which was received and acknowledged by the respondent Department on 16.10.2019. Thereafter, subsistence allowance was also sanctioned by the Correspondent of the petitioner School on 30.1.2020 and a bill for payment was also forwarded on 21.2.2020 and the respondent Department alone has not released the subsistence allowance. This is their mistake. Concealing this fact, for the reasons best known to them, the present impugned order has been passed.

3. Again assailing the impugned order, he pleaded that the respondents have again wrongly proceeded on the basis that the petitioner has not sought for renewal of the School Committee. This is also factually incorrect. Even as early as on 9.12.2017, proposal for renewal of the School Committee was forwarded and that was also received by the respondents. After receipt of the same, the proposal has been



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kept pending by the fourth respondent all along, for the reasons best known to them, and nothing has been mentioned. Therefore, the impugned order clearly shows that for extraneous reason, unlawfully the District Educational Officer has proceeded against the petitioner-School, being run for 100 years, ordering direct payment, which is not legally permissible. Hence, the ratio laid down by this Court in the decision in Papanasam Labour Welfare Association Higher Secondary School v. Chief Educational Officer (1998 (3) CTC 753) will not permit the impugned order to stand to legal scrutiny. He has also sought for action against the respondents for passing an unjustifiable order on extraneous ground.

4. Mr.C.Munusamy, learned Special Government Pleader appearing on behalf of the respondents stated that so far as the issue relating to the payment of subsistence allowance to the suspended teacher is concerned, that has been settled. Secondly, with regard to the non-renewal of School Committee, the petitioner School has not taken any action, therefore, the impugned order has been passed.”

7. Considering the facts and circumstances of the case, and also taking into consideration the fact that the subsistence allowance has been paid to the suspended teacher and that the School Committee has been



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renewed and a communication to that effect has already been sent for the approval of the respondents by the petitioner school, the impugned order passed by the third respondent is set aside and the matter is remitted back to the third respondent for fresh consideration. While reconsidering the same, the third respondent is directed to complete the entire process and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.06.2023
(1/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



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DPI Campus, College Road,
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