



W.P.(MD)No.14582 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.14582 of 2021

and

W.M.P.(MD).Nos.11512 and 11515 of 2021

C.Meenakshi Sundaram

... Petitioner

Vs.

1.The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Collectorate Campus,
Dindigul District.

2.The Kamatchi Pandarinathan Trust,
Through it's Managing Trustee,
No.4/385, Maharaja Nagar,
Opposite to Collector Office,
Dindigul,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order bearing Se.Mu.Na.Ka.No.1854/SA2/2021 dated 17.05.2021 on the file of the first respondent and quash the same as illegal and consequently direct the first respondent to permit the petitioner to continue the EIC-HI project school for children.



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For Petitioner : Mr.P.Shankar Ganesh
For R-1 : Mr.B.Saravanan
Additional Government Pleader
For R-2 : No Appearance

ORDER

When the matter came up for hearing on 18.08.2021, this Court passed the following order:

The petitioner challenges an order dated 17.05.2021 of the first respondent whereby the petitioner's right to undertake specific activities relating to the hearing impaired was cancelled and, consequently, the petitioner was called upon to hand over all equipment and materials in connection therewith to the second respondent herein.

2. The petitioner states that it has been undertaking the aforesaid services relating to the hearing impaired since January 2015. By referring to a Government Order issued by the Principal Secretary to the Government under G.O.(2D) No.10, Welfare of Differently Abled Persons (DAP 2.1) Department, dated 18.12.2015, the petitioner contends that only the State Commissioner for the



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Differently Abled may either remove or select a Non-Governmental Organisation (NGO) for implementing schemes relating to the differently abled. Even such State Commissioner is required to do so after observing due formalities and principles of natural justice in consultation with the Government. According to the petitioner, the impugned order is in contravention of the stipulation in the aforesaid Government Order.

3. Upon considering the aforesaid submission and on examining the impugned order dated 17.05.2021, it is clear that such order has been issued by the District Differently Abled Welfare Officer and not by the State Commissioner. In addition, there is no indication that the petitioner was afforded a reasonable opportunity of hearing before issuing the impugned order. Therefore, a prima facie case is made out. Accordingly, the directions in the impugned order whereby the petitioner's right to provide services to the hearing impaired was cancelled and the consequential direction to hand over all the equipment and materials relating to the aforesaid scheme to the second respondent



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shall remain stayed for a period of three (3) weeks from the date of receipt of a copy of this order.

4. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf the first respondent.

5. Issue notice to the second respondent returnable by 08.09.2021. Private notice is permitted.

6. Let the matter appear on September 8, 2021.

2. The first respondent has filed a status report. The relevant portions in the status report are extracted hereunder:

“7. Since there were many complaints, the then Director for Welfare of the Differently Abled has directed the Deputy Director to conduct field enquiry. It is further submitted that during the course of enquiry, the petitioner was given various opportunities to submit his statements regarding the allegations. The petitioner has attended the enquiry but failed to submit any of his explanations or documents during the enquiry. Further, the petitioner sought additional time to file his statements to the Deputy Director / Enquiry Officer deputed by the Director.



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However, the petitioner failed to submit the report in time as committed by him. Hence, it cannot be said that the principles of natural justice have been violated as the petitioner was given enough opportunity / intimation both by the first respondent through letters and by the enquiry officer during enquiry. A copy of the detailed enquiry report is submitted for the consideration of this Hon'ble Court.

9. Para 3(v) of G.O.(2D).No.10, Welfare of Differently Abled Persons (DAP 2.1) Department, Dated 18.12.2015 states as follows.

“v. Permission is accorded to the State Commissioner for the Differently Abled to decide on the removal and selection of implementing Non-Governmental Organizations, after observing due formalities and principles of natural justice in consultation with Government.”

10. It is humbly submitted that the impugned order passed by the first respondent has been cancelled by the Director for Welfare of the Differently Abled vide the order issued in Na.Ka.No.3601/GRH-2/2018, Dated 07.10.2023.



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Hence, it is humbly submitted that the cause of action in this writ petition ceases to exist after the cancellation of the impugned order.

11. It is further humbly submitted that since the removal and selection of the implementing NGOs are to be decided by the Director for Welfare of the Differently Abled in consultation with Government, the Directorate has initiated the necessary steps for the same.

12. It is humbly submitted that insofar as the removal of petitioner NGO is concerned, the same will be decided by the Director for Welfare of the Differently Abled after having consultation with the Government along with the enquiry report as mandated in G.O. dated 18.12.2015.”

3. It is clear from the status report filed by the first respondent that the impugned proceedings of the first respondent dated 17.05.2021 has been cancelled by the Director for Welfare of the Differently Abled through proceedings dated 07.10.2023. Already steps have been taken to submit a report before the Government and to initiate further action against the petitioner. It goes without saying that as and when the Director for Welfare of Differently



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Abled after having consultation with the Government, decides to cancel the license given to the petitioner, the petitioner shall be put on notice and shall be given an opportunity.

4. Recording the stand taken by the first respondent in the status report, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Collectorate Campus,
Dindigul District.



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N.ANAND VENKATESH, J.

Nsr

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