



W.P.(MD).Nos.19793 and 19794 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).Nos.19793 and 19794 of 2021

and

W.M.P.(MD).Nos.16481, 16482, 16484 and 16485 of 2021

W.P.(MD).No.19793 of 2021:

C.Meenakshi Sundaram

... Petitioner

Vs.

- 1.The State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.
- 2.The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Collectorate Campus,
Dindigul District.
- 3.K.Sarala,
Assistant Director (Training),
Office of the State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.



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4. Mythili,

Assistant Special Officer (Home),
Office of the State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.

5. Bhuvana,

The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Thiruvavarur District.

6. Chandramohan,

The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Trichy District.

7. Jeyakumar,

Skill Assistant,
District Differently Abled Welfare Office,
Collectorate Campus,
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 Na.Ka.No.3379/2021 dated 07.10.2021 on the file of the second respondent and quash the same as illegal and consequently direct the first respondent to drop the recovery proceedings against this petitioner.



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W.P.(MD).No.19794 of 2021:

Nagarathinam

... Petitioner

Vs.

- 1.The State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.
- 2.The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Collectorate Campus,
Dindigul District.
- 3.K.Sarala,
Assistant Director (Training),
Office of the State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.
- 4.Mythili,
Assistant Special Officer (Home),
Office of the State Commissioner for the Differently Abled,
Jawaharlal Nehru Inner Ring Road,
K.K.Nagar,
Chennai – 600 078.
- 5.Bhuvana,
The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Thiruvavarur District.
- 6.Chandramohan,
The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Trichy District.



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7.Jeyakumar,
Skill Assistant,
District Differently Abled Welfare Office,
Collectorate Campus,
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 Na.Ka.No.3339/2021 dated 07.10.2021 on the file of the second respondent and quash the same as illegal and consequently direct the first respondent to drop the recovery proceedings against this petitioner.

(In Both Writ Petitions):

For Petitioner	: Mr.R.Shankar Ganesh
For R-1 and R-2	: Mr.B.Saravanan Additional Government Pleader
For R-3 to R-7	: No Appearance

COMMON O R D E R

When the matter came up for hearing on 02.11.2021, this Court passed the following order:



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“In these two writ petitions, two separate orders each dated 07.10.2021 seeking recovery of amounts claimed by the respective petitioner towards salary are challenged.

2.The respective petitioner assails the impugned order on the ground that such order was issued without notice to the respective petitioner and without conducting an inquiry in relation thereto.

3.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of first and second respondents.

4.Upon perusal of the impugned orders, it appears that such orders were issued entirely on the basis of a letter from the Commissioner. The said orders do not disclose that a prior notice was issued to the respective petitioner. Therefore, a prima facie case is made out and there shall be an order of interim stay of coercive action pursuant to the impugned orders. Such interim order shall operate for a period of three weeks from the date of receipt of a copy of this order.

5.Issue notice to respondents 3 to 7 returnable on 23.11.2021. Private notice is permitted.

6.Let the matter appear on 23.11.2021. Tag and list this matter along with W.P.(MD).No.14582 of 2021.



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2. The first respondent has filed a common counter affidavit. In the common counter affidavit, the following complaints / discrepancies are pointed out against the petitioner:

8. It is submitted that the 3rd Respondent has filed a detailed report regarding the functioning of each institution run by the Petitioners. The findings regarding each of the institutions have been summarized below.

PONMALAI SPECIAL SCHOOL FOR MENTALLY RETARDED, DINDIGUL

9. The findings regarding the Ponmalai Special School for Mentally Retarded, Dindigul which is the subject matter of WP(MD) No. 19794/20201 is as follows.

10. Inspection of Ponmalai Special School for Mentally Retarded, Dindigul was conducted on 08.03.2021 and 09.03.2021 in person by the 3rd Respondent. The Petitioner and her employees were directed to produce their Teacher Attendance records, student attendance records, accounts statements and receipts before the 3rd Respondent by 09.03.2021. When they failed to produce



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records by 09.03.2021, they were provided time till 15.03.2021 to submit the records. However, the Petitioner in WP(MD).No.19794 of 2021 has not submitted her records till date.

11. In the inspection, several teachers and parents submitted their responses to the questionnaire which were collated by the 3rd Respondent. From the information so gathered, it was determined that the Ponmalai School had falsely claimed salaries from the Department towards 2 Special Teachers and 1 physiotherapist. The details of the fraudulent claims are as below:

S.NO	NAME	PERIOD	SUM (RS)	REASONING
1.	Bennison Devadas (Physiotherapist)	4/2018-4/2019	1,68,000 (12 months x Rs.14,000)	Name is shown in attendance register but as per Bennison Devadas's statement, he never worked here.
2.	Revathi (Special Teacher)	4/2018 to 9/2018	84,000 (12 months x Rs.14,000)	Did not work in the School for the stated periods.
3.	Pratibha (Special Teacher)	4/2019 to 3/2020	1,68,000 (12 months x Rs.14,000)	For concerned period, she worked as Special Teacher in Theni District in another School Attendance records of Theni School corroborate.
	Total		Rs.4,20,000	



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12. Thus from 2018-2020, it was determined from statements and record that a sum of Rs. 4,20,000 was fraudulently claimed by the Petitioner in WP(MD).No. 19794/2021. Apart from these fraudulent claims, several other illegalities in their functioning were unearthed. They are as follows:

(i) An intellectually disabled student named Muthupandi had died on 02.11.2019. However, he is shown as attending the School even now as per the School's attendance registers.

(ii) The School claimed that around 24 students were being taught in their School. However, from the responses of the parents and teachers, it was established that only 10-15 students used to attend the School even prior to the Pandemic.

(iii) The Department had sanctioned a sum of Rs. 14,000 per month as the salary for Special Teacher Thangamani from March 2020. However, as per his response, he was not paid any salary since March 2020.



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(iv) *Special Teacher Pratibha stated that for the periods she was paid salary, she was paid Rs.5000 a month though the sanctioned salary was Rs.14,0000 per month.*

13. Thus, the above findings of the 3rd Respondent as stated in her inspection report clearly establish that several illegalities were committed by the Petitioner. It is because of the above-mentioned illegalities that the impugned recovery order was issued by the DDAWO.

WORLD SPECIAL SCHOOL FOR THE MENTALLY RETARDED, KODAIKANAL

14. As stated above, the Petitioner in W.P.(MD).No. 19793/2021 runs two institutions- school for the mentally retarded and an early intervention centre for hearing impaired. It is submitted that both of these institutions were inspected by the third respondent and reports submitted.

15. With regard to the World Special School for Mentally Retarded, Kodaikanal, inspection was conducted on 08.03.2021 and 09.03.2021. It was determined that the World Special School, Kodaikanal had also shown several teachers on its rolls, received funds from the Department



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but did not employ such special teachers and physiotherapists in their School. The details are as follows:

S.No.	NAME	PERIOD	SUM (Rs)	REASONING
1.	Nethiranandam	2016-17, 2017-18, 2018-19	4,08,000	Name is shown in register but did not work there.
2.	Mrs.Indira Gandhi (BPT) (Physiotherapist)	4/2016 to 3/2017	1,20,000 (12 months x Rs. 10,000)	Did not work in the School but name found in register.
3.	Santhoshkumar (BPT) (Physiotherapist)	4/2018 to 3/2019	1,68,000 (12 months x Rs.14,000)	Came to School once a month but claimed salary for the entire month.
4.	Juliet Mary (Special Teacher)	4/2019, 11/2019 – 12/2019	42,000 (3 months x Rs.14,000)	The Department sanctioned funds for 9 months. She worked for 6 months but was paid for 3 months.
	Total		7,38,000	

16. It is submitted that apart from the above, the following illegalities were also identified during the inspection -

(i) The attendance records show as though 24 persons have worked at the School. However, the parents deny that



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so many teachers have worked here.

(ii) The School had a strength of around 7-9 students even prior to the pandemic. It is to be noted that several of the students whose names find mention in the Students Attendance register are also enrolled in the Government School, Kodaikanal and CSI Polio Home School. This information was received from the interaction with the parents of the students supposed to be enrolled in this School.

(iii) A former employee, Jegamurugan informed that he worked in the School for April 2020-December 2020. While the Department had sanctioned his salary for the year, Rs. 1,26,000 to the School, the School had not paid the salary to him. He also stated that the School Management had obtained his signatures on several blank vouchers from him.

(iv) The physiotherapist Bennison Devadass informed that he worked at this School for the period of February 2019-March 2020. While the Department had sanctioned funds, he has not received the same till date.



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(v) The Special Teacher Jegamurugan worked at the School from January-March 2020. The Department had sanctioned a sum of Rs 14,000 per month as his salary. However, as per his statement, he received only Rs.7000/- from the School.

3. Heard the learned counsel appearing on behalf of the petitioners and the learned Additional Government Pleader appearing on behalf of the respondents 1 and 2.

4. The first respondent has pointed out various discrepancies against the petitioners based on the report submitted by the third respondent. The first respondent has also taken a stand that the petitioners were repeatedly asked to submit the explanation and to furnish the relevant records on more than one occasion. However, since the petitioners did not submit the relevant records and participate in the enquiry, the respondents were left with no other option except to pass the order seeking for recovery of the amounts from the petitioners.

5. The learned counsel for the petitioners submitted that the petitioners were never put on notice and that the petitioners are always willing to furnish the necessary particulars / documents and attend the enquiry.



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6. Taking into consideration the facts and circumstances of the case and specific stand that has been taken by the petitioners, there shall be a direction to the petitioners to give explanation along with the relevant documents for all the discrepancies that have been pointed out in the counter affidavit filed by the first respondent and which has been extracted supra, to the first respondent. This shall be done by the petitioners within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of the explanation and the relevant documents from the petitioners, the first respondent shall conduct an enquiry and shall pass final orders within a period of eight (8) weeks thereafter. If the petitioners fail to give the explanation and furnish the relevant documents within the time frame fixed by this Court, it shall be construed that the petitioners do not have any explanation and do not have any documents to submit and it will be left open to the first respondent to pass necessary orders in accordance with law. This Court is inclined to give one last opportunity to the petitioners to give their explanation and to submit the relevant documents. This is in view of the fact that very serious allegations have been made against the petitioners and hence, the petitioners should not be damned without giving an opportunity.



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No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2023

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

To

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N.ANAND VENKATESH, J.

Nsr

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