



WP.No.22428 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.22428 of 2012

and M.P.No.1 of 2012

Sri Ramasamy Naidu Vidyalayam,

(Higher Secondary School)

Represented by its Secretary

Lakshminaickenpalayam,

Coimbatore District 641658.

...Petitioner

Vs.

1.The Director of School Education,

Kilpauk,

College Road,

Chennai.

2.The District Educational Officer,

Gopalapuram,

Coimbatore-18,

Now at:

Raja Street,

Coimbatore-1.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus, directing to call for the records of the 2nd respondent in Na.Ka.No.569/A5/2010 dated 06.05.2011, quash the same and consequently, direct the 2nd respondent to refund/reimburse the sum of Rs.2,66,190/- paid by the petitioner School to its then Head Master.

For Petitioner : M/s.A.Jenasenan
For Respondents : Mr.R.Neelankandan,
Additional Advocate General
Assisted by Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed seeking for issuance of a writ of certiorarified mandamus calling for the records relatingly to the proceedings bearing Na.Ka.No.569/A5/2010 dated 06.05.2011 passed by the second respondent, refusing to accept the request made by the petitioner to reimburse Rs.2,66,190/- paid by the petitioner School in favour of the former Head Master.

The brief facts that are relevant for disposal of this writ petition are as under:



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2.The petitioner herein, the School, initiated disciplinary proceedings against the Head Master on certain alleged misconduct and thereafter, the Management made a request before the Chief Educational Officer seeking prior approval to impose the punishment of removal from service, in terms of Section 22 Sub Section (1) of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, by submitting a representation dated 06.05.2011. However, the concerned Chief Educational Officer failed to pass any order on the said request made by the petitioner, inspite of the subsequent repeated reminders made by the petitioner. Thus, there is no prior approval granted by the concerned Chief Educational Officer in terms of Section 22 of the said Act of 1973. However, the petitioner School claimed to have proceeded to pass orders removing the Head Master from service, by an order dated 31.01.2001. Thereafter, the said order of removal dated 31.01.2001 was appealed against and the same was allowed by the Joint Director by an order dated 21.11.2001 and the appeal filed by the petitioner herein was rejected, by an order dated 16.12.2004. Thus, the order of removal passed against the Head Master in the Petitioner's School on 31.01.2001 stood set aside. It is thereafter, the said Head Master, namely Rembert S.Pakiam, filed Writ



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Petition No.1590 of 2007 before this Court, praying for payment of salary from 31.01.2001, that is, the date on which the said Head Master was removed from service till 31.01.2002, that is the date on which he attained the age of superannuation and the said writ petition came to be allowed by this Court, by an order dated 05.03.2008, directing the petitioner School herein to regularize the entire period of suspension as on duty with pay and allowances and also directed to forward the pension proposal of the petitioner as he had retired from service on 31.01.2001 itself. It is pursuant to the said order passed by this Court, the petitioner claims to have paid a sum of Rs.2,66,190/-. But the petitioner, having taken advantage of the observations made by this Court while disposing of W.P.No.1590 of 2007, granting liberty to the petitioner to approach the Government Authorities seeking for reimbursement of the amounts that were directed to be paid to the petitioner under the said order, the petitioner claimed to have submitted a representation dated 01.06.2009 and 04.04.2011 requesting for reimbursement of the amounts that were paid by the petitioner. On considering the said representation made by the petitioner, through the impugned order, the 2nd respondent rejected the claim made by the



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petitioner on 06.05.2011. It is aggrieved by the said rejection, the petitioner has approached this Court by filing the present writ petition.

3.It is not in dispute that the order of punishment removing the Head Master concerned from the petitioner School by order dated 31.01.2001, was set aside by the Competent Authority and the same has become final. The order passed by this Court in W.P.No.1590 of 2007 dated 05.03.2008 has also become final. The only basis for the petitioner is to make a claim for refund of the amount as sought for in the present writ petition is the observation made by this Court in the order dated 05.03.2008 in W.P.No.1590 of 2007. From a perusal of the said observation, it is clear that this Court only granted liberty to the petitioner to make representation seeking for payment of amounts paid by the petitioner therein and directed for consideration of the same in accordance with law. Therefore, it is for the petitioner to substantiate his claim for refund of the said amount. Admittedly, the order dated 31.01.2001 was passed by the petitioner herein removing the Head Master from service in contravention of Section 22 Sub Section (1) of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.



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There is no dispute in this regard. However, it is contended by the learned counsel for the petitioner that the concerned Chief Education Officer, who is the Competent Authority to grant prior approval in terms of Section 22 Sub Section (1) of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, failed to discharge his duties, even after a lapse of more than seven months and therefore, the petitioner proceeded to pass orders of remove from service without obtaining any prior approval for removal and therefore, the petitioner cannot be made liable to incur the financial loss because of the inaction on the part of the Chief Education Officer. The inaction, or failure of the Chief Education Officer concerned, is not challenged in the present writ petition and the claim of the petitioner is only for refund of the amounts said to have been paid by the petitioner to the former Head Master, pursuant to the order passed by this Court. If the Chief Education Officer failed to discharge his duties or any responsibilities under the Act of 1973 at the relevant point of time, it is for the petitioner to take appropriate steps in accordance with law and see to it that the concerned Chief Education Officer passed appropriate order under Section 22 Sub Section (1) of Tamil Nadu Recognized Private Schools (Regulation)



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Act, 1973. But the petitioner, instead of taking appropriate steps against the said Chief Education Officer, proceeded to pass orders on 31.01.2001 in violation of Section 22 Sub Section (1) of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. Therefore, the said order of removal from service dated 31.01.2001 was rightly interfered by the appellate Authority.

4.In the light of the above facts and circumstances, it is clear that the petitioner failed to take appropriate steps at the relevant point of time and acted in violation of binding law. Admittedly, the Authority has followed the Department of Law as contemplated under Section 22 Sub Section (1) of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 in allowing the Appeal filed by the Head Master. Therefore, the question of petitioner being entitled for refund of the amount, said to have been paid, to the petitioner, pursuant to an order passed in W.P.No.1590 of 2007 dated 05.03.2008, does not arise.

5.In the light of the above, this Court does not find any merits in this writ petition and there is also no error or illegality in the imugned order passed by the 2nd respondent.



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6Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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