



WEB COPY

W.P.No.40778 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.40778 of 2015

and

M.P.Nos.1 and 2 of 2015

- 1.C.Shaji
- 2.K.Baby
- 3.D.Shahul Hameed
- 4.V.Ananda Jothi
- 5.K.Jothimurugan
- 6.A.Pasarluck
- 7.B.Krishnaveni
8. N.Sakthivel
- 9.S.Hakeem
10. N.Sivasamy
11. A.Eswaramoorthy
12. K.Kumar
13. R.Rangasamy
14. K.A.Santhumuhamathu
15. T.Kaleeswaran
16. K.Ramakrishnan
17. A.Syed Ibrahim
18. N.Selvaraj
19. P.Sakthivel
20. P.Arumugam
21. J.Muthusaravanan
22. V.Murugan
23. N.Sasiprakash
24. M.Gobalsamy
25. S.Anand
26. S.R.Anandaraj



27. N.Makalakshmi
28. R.M.Arumugham
29. S.Chellamuthu
30. K.Rajendran
31. N.T.Senthilkumar
32. Vani
33. N.Nagarajan
34. N.Pattiswari
35. R.Chandrakumar
36. K.P.Easwaran
37. N.Sakthivel
38. E.Ramasamy
39. P.Indhumathi
40. B.J.Thiyagarajan
41. S.Sathiyabama
42. P.Manimekalai
43. N.Selvarajan
44. R.Sivamayan
45. E.Manickam
46. R.Natarajan

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Rural Development Department,
Secretariat, Chennai – 9.
2. The District Collector,
Collectorate, Coimbatore District,
Coimbatore.
3. The Assistant Director (Audit),
Rural Development,
Collectorate, Coimbatore.
4. The Block Development Officer (Village Panchayat),
Pollachi North, Pollachi,
Coimbatore District.



WEB COPY

5. The Block Development Officer (Village Panchayat),
Pollachi South Panchayat Union,
Pollachi, Coimbatore District.

6. The Block Development Officer,
Karamadai Panchayat Union,
Karamadai, Pollachi Taluk,
Coimbatore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records on the file of the 4th Respondent in connection with the order passed by him in his Proc.Na.Ka. No. 06/2014/A2 dated 02.12.2015, 5th Respondent in his Proc.Na.Ka. No. 909-09 A1 dated 06.07.2009 and 6th Respondent in his Proceedings nil, dated 30.11.2015 and quash the orders to the extent of the petitioners and direct the respondents to uphold the order of payment passed by the respondents 4,5 and 6 as per G.O.Ms. No. 191, Rural Development Dept. dated 29.04.1998.

For Petitioner	: Mr.R.Singaravelan, Senior Counsel
For R1 to R3	: Mr.P.Ganesan, Additional Government Pleader
For R4 to R6	: Mr.V.Jaya Prakash Narayanan

ORDER

This writ petition has been filed challenging the proceedings, dated



02.12.2015, 06.07.2009 and 30.11.2015 issued by the Respondents 4 to 6 respectively, whereby certain amounts are sought to be recovered from the petitioners on the ground that, they were paid in excess of their pay.

WEB COPY

2. All the petitioners herein have been working as 'Panchayat Assistants' in various Panchayats under the control of the Respondents 4 to 6. The said amounts are sought to be recovered by virtue of the clarification said to have been issued by the Director of Panchayat purportedly in terms of G.O (Ms) No.191, Revenue Department, dated 21.12.1998. The impugned orders are attacked mainly on the ground that the same were issued in violation of principles of natural justice and no orders were issued revising or re-fixing the pay of the petitioners, which were already fixed. Further, from the perusal of the impugned orders also, there is nothing to show that any opportunity was afforded to the petitioner before ordering for recovery of the amounts that are covered by the impugned orders. Further, it there is nothing to show that the pay of the petitioners are revised or re-fixed etc., In the absence of any reason assigned in the impugned order and without affording any opportunity, prejudicially effecting the interest of the petitioners financially, the proceedings ought not to have been issued.



WEB COPY

3. It is also brought to the notice that, this court, while entertaining the writ petition, granted stay, thereby staying recovery, and the impugned order are not given effect to as on date.

4. The learned counsel for the Respondents 4 to 6 placed reliance on the decision of the learned Single Judge of the Madurai Bench of this Court in W.P (MD) Nos.19010 to 19018 of 2014, but this court is of the considered view that the said decision has no application to the case on hand for the simple reason that the issue of violation of principles of natural justice was considered by the learned Single Judge. In the said decision, the learned Single Judge only considered the aspect of recovery in the light of the decision of the Hon'ble Apex Court in the case of *“State of Punjab -vs- Rafiq Masih”* reported in **AIR 2015 SC 696** and the aspect of violation of principles of natural justice was not at all considered by the learned Single Judge. In the circumstances, the said decision has absolutely no application to the case on hand.

5. In the circumstances, impugned orders are liable to be set aside on



the ground of violation of the principles of natural justice and accordingly, the impugned orders dated 06.07.2009, 30.11.2015 and 02.12.2015 are set aside, leaving it open to the respondents to take appropriate action strictly in accordance with law.

MUMMINENI SUDHEER KUMAR, J.
skr

6. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

05.11.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

W.P.No.40778 of 2015

To

1. The Secretary to Government of Tamil Nadu,
Rural Development Department, Secretariat, Chennai – 9.
2. The District Collector, Collectorate,
Coimbatore District, Coimbatore.
3. The Assistant Director (Audit),
Rural Development, Collectorate, Coimbatore.



W.P.No.40778 of

4. The Block Development Officer (Village Panchayat),
Pollachi North, Pollachi, Coimbatore District.

5. The Block Development Officer (Village Panchayat),
Pollachi South Panchayat Union,
Pollachi, Coimbatore District.

6. The Block Development Officer,
Karamadai Panchayat Union,
Karamadai, Pollachi Taluk, Coimbatore District.