



WEB COPY

W.P.No.21605 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.21605 of 2019

and

W.M.P.Nos.20819 of 2019 and 1013 of 2021

1. D.Anusuya
2. R.Carlin
3. I.Suganthi Mala
4. K.Boopathi
5. P.Prakash
6. D.Sabari Arasi
7. M.Backyalakshmi
8. M.Sundari
9. R.Jaisankar
10. S.Ganesan
11. V.Naveen Kumar
12. P.Thulasi Mani
13. V.Kalaichelvi
14. C.Geetha
15. S.Narmadhabai

... Petitioners

Vs.

1. The Regional Accounts Officer (Audit),
Department of School Education,
Coimbatore – 641 001.
2. The Director,
Directorate of School Education,
Chennai – 600 006.
3. The District Educational Officer,



Villupuram, Villupuram District.

4. The District Educational Officer,
Tiruppur, Tiruppur District.

5. The District Educational Officer,
Erode, Erode District.

6. The District Educational Officer,
Salem, Salem District.

7. The District Educational Officer,
Vellore, Vellore District.

8. The District Educational Officer,
Namakkal, Namakkal District.

9. The District Educational Officer,
Pudukottai, Pudukottai District.

10. The District Educational Officer,
Krishnagiri, Krishnagiri District.

11. 10. The District Educational Officer,
Virudhunagar, Virudhunagar District.

12. The District Educational Officer,
Dindigul, Dindigul District.

13. The Headmaster,
Government Girls Higher Secondary School,
Katpadi, Vellore – 632 007.

14. The Headmaster,
STRN, Government Higher Secondary School,
Arupukkottai,
Virudhunagar District.

15. The Headmaster,



Government High School
V.Agaram Colony,

16. The Headmaster,
Government High School,
Muthampalayam,
Villupuram District.
17. The Headmaster,
Government Higher Secondary School,
Kerikepalli,
Krishnagiri District.
18. The Headmaster,
Government Higher Secondary School,
Iraiyr, Thiruvannamalai District.
19. The Headmaster,
Government Higher Secondary School,
Agaram, Dindigul.
20. The Headmaster,
Government Higher Secondary School,
Kundadam, Tiruppur District.
21. The Headmaster,
V.V.Higher Secondary School,
Ponnamaravathy,
Pudukottai District.
22. The Headmaster,
Government Girls Higher Secondary School,
Kothamangalam,
Alangudi Taluk,
Pudukottai District.
23. The Headmaster,
Government Girls Higher Secondary School,
Pochampalli,



Krishnagiri District.

24. The Headmaster,
Government Higher Secondary School,
Thudupathi, Erode District.
25. The Headmaster,
Government Higher Secondary School,
Elachipalayam, Thiruchengode Taluk,
Namakkal District.
26. The Headmaster,
Government Higher Secondary School,
Naduppatti, Kadayampatti,
Salem District.
27. The Registrar,
Vinayaka Missions University,
Salem – 636 308.
28. The Secretary,
University Grants Commission,
New Delhi.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 to 26 from initiating any action to recover the payment of incentive increments paid to the petitioners for having qualified M.Phil., Degree granted by the 27th respondent and consequently direct the respondents 1 to 26y to continue to pay the incentive increment to the petitioners and pass such further or any other appropriate order as this Hon'ble Court may deem fit.

For Petitioners	: M/s.N.Umapathi
For Respondents	: Mr.K.H.Ravikumar,
	Government Advocate

ORDER



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All the petitioners herein were appointed as B.T Assistant and working in the respondents Schools. While so, they acquired M.Phil., Degree from the Vinayaka Missions University during the years 2007-2009 and accordingly made a claim for award of 'Incentive Increment' for having acquired higher qualification and accordingly, all the petitioners were awarded with 'Incentive Increment'. However, there appears to be an audit objection raised on award of such 'Incentive Increment' for the M.Phil., Degree acquired by the petitioners from the Vinayaka Missions University and in view of the same, when the respondents proposed to stop the payment of such 'Incentive Increment', the petitioners approached this Court by filing the present Writ Petition.

2. By virtue of an interim order dated 25.07.2019 passed by this Court, the petitioners continue to draw such 'Incentive Increment' as on date. In response to the notice issued by this Court, the Respondent No.5 filed a counter-affidavit, wherein it is stated that the M.Phil., Degree acquired by the petitioners are all invalid in view of the fact that the Vinayaka Missions University is not authorized to conduct courses through 'Distant Education mode' and it is also further stated that this Court has already decided the said issue in W.P.No.42675 of 2016 and batch by an order dated 06.09.2018.



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3. The relevant paragraph, i.e., Paragraph No.8 of the counter-affidavit reads as under:-

“ 8. It is submitted that the Teachers cannot acquire degrees from open universities. From unrecognized universities or unrecognized courses conducted by the recognized universities cannot be considered for grant of incentive increment. At the outset, the degrees granted only in accordance with law alone can be taken into account for the purpose of granting incentive increment, failing which the very object of grant of incentive increment would be defeated. The M.Phil possessed by the writ petitioners are invalid one in view of the fact that Vinayaka Missions University is not authorized to conduct courses through distance education mode. The Hon'ble High Court in batch of writ petitions by an order dated 06.09.2018 in WP.Nos.42675 to 42687 and 42689 of 2016 observed that in this view of the matter, this Court is of the opinion that the writ petitioners are not entitled for grant of any incentive increment for the qualification of M.Phil degree obtained by them from the 5th respondent/Vinayaka Mission University, which are



not approved.”

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4. However, it is brought to the notice of this Court by learned counsel for the petitioners that the very same issue as to whether the persons who acquired M.Phil., Degree from the Vinayaka Missions University during the years 2007-2009 are entitled for award and continuance of payment of 'Incentive Increment' or not? has fallen for consideration before a learned Division Bench of this Court in W.A.No.2328 of 2018 and batch and the learned Division Bench by an order dated 04.08.2023 held that the Teachers who acquired M.Phil., Degree during the years 2007-2009 from the Vinayaka Missions University are entitled to draw the 'Incentive Increment'.

5. This Court has perused the said order passed by the learned Division Bench, wherein the very same issue was considered and the learned Division Bench held as under:-

“ 35. In the result, the following orders are passed in these writ appeals:

That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the



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respective petitions is also set aside to the extent that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.”

6. In the light of the above and also in the light of the undisputed fact that the petitioners herein have acquired the M.Phil., Degree during the years 2007-2009 are also entitled for award and continuance of such 'Incentive Increment' for having acquired M.Phil., Degree.

7. As the 'Incentive Increment' that was awarded in favour of the petitioners is being continued to be paid to the petitioners by virtue of the



interim orders, the respondents are directed to continue such 'Incentive Increment' to all the petitioners for having acquired M.Phil., Degree during the years 2007-2009 from the Vinayaka Missions University.

8. Accordingly, the Writ Petition is allowed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

20.06.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2. The Director, Directorate of School Education,
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