



W.P(MD)No.7136 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.7136 of 2024

N.Muthaiah

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Education Department,
Fort St.George, Chennai-600 009.

2.The District Primary Education Officer,
District Primary Educational Office,
Tirunelveli District.

3.The Assistant Primary Education Officer,
Ambasamudram Circle,
Tirunelveli Distric.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to conduct enquiry and to pass appropriate orders to recover the loss incurred to the Government based on the petitioner's, representation dated 02.12.2022 in accordance with law within the time frame as fixed by this Court.

For Petitioner : Mr.P.P.Alwin Balan



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For Respondents : Mr.M.Sarangan
Additional Government Pleader

ORDER

The present writ petition has been filed seeking direction to the respondents 2 and 3 to conduct enquiry and to pass appropriate orders to recover the loss incurred to the Government based on the petitioner's, representation dated 02.12.2022 in accordance with law.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner's family had been running the Hindu Middle School at Adaiyakarungulam Village for more than 80 years. During 2016-17 academic year, due to lack of harmony between the petitioner and his family members, the school management became defunct. Following which, there was no admission of students and in a due course of time, the school itself was demolished. The petitioner had sent a representation on 08.07.2015 to the 2nd respondent explaining the said facts and requesting for closure of the school. Since it was not responded by the authorities, the petitioner had filed



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W.P(MD)No.9870 of 2016 and this Court has disposed off the said case on 06.06.2016 directing the Directorate of Education Department to pass appropriate orders considering the representation of the petitioner. Thereafter, the Director of Education conducted an enquiry and passed an order on 06.09.2016 rejecting the petitioner's request for closing the school stating that there is no *prima facie* reason to close the school. Based on the enquiry report submitted by the 2nd respondent, one R.Arul Selvi who earlier served in the petitioner's school was accommodated at Mohaideen Fathima Middle School, Ambasamudram. Further, it is informed that the said Arul Selvi has been transferred from the petitioner's school and now working in Mohaideen Fathima Middle School, Ambasamudram vide proceedings of the 2nd respondent, dated 19.08.2016. In such circumstances, the petitioner had made a representation on 02.12.2022 narrating the facts to the respondents 1 to 3 to take necessary action against the said Arul Selvi for defrauding the Government by receiving salary. Since the same was not considered, this writ petition came to be filed.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to



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consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. In view of the above, this Court hereby direct the 2nd and 3rd respondents to consider the representation of the petitioner, dated 02.12.2022 and pass appropriate orders in accordance with law within a period of sixteen (16) weeks from the date of receipt of copy of this order.

6. With the above said observations, this Writ Petition stands disposed of. No costs.

22.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

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District Primary Educational Office,
Tirunelveli District.
- 3.The Assistant Primary Education Officer,
Ambasamudram Circle,
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L.VICTORIA GOWRI, J.

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