



W.P.(MD)No.15963 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.10.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.15963 of 2019

and

W.M.P.(MD)No.12674 of 2019

T.Balamurugan

... Petitioner

/Vs./

1.The Director of Elementary Education,
Dpi Campus, College Road,
Chennai-6.

2.The Regional Account Officer, (Audit),
School Education Department,
Madurai.

3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned recovery order in Na.Ka.No.2895 / E1 / 2019 dated 20/05/2019 passed by the 3rd respondent and quash the same as illegal and arbitrary.



W.P.(MD)No.15963 of 2019

For Petitioner : Mr.R.Gowrishankar
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned recovery order dated 20.05.2019 passed by the third respondent.

2. Under the impugned order, the third respondent is seeking to recover the excess payments made to the petitioner towards incentive increments paid to him on account of his B.Ed., qualification. The petitioner has challenged the same on the ground that the impugned recovery order is bad in law, as the said recovery cannot be made, when any increment has already been granted to the petitioner.

3. The issue raised in this writ petition is covered by the Division Bench judgment of this Court dated **15.02.2024** passed in ***WA.No.499 of 2024*** in the case of ***The District Elementary Educational Officer, Kanchipuram District, Kanchipuram and Another vs. V.Prabaavathy,***



W.P.(MD)No.15963 of 2019

wherein it has been held following the decision of the Hon'ble Supreme Court in the case of *State of Punjab and Others vs. Rafiq Masih (White Washer)* reported in *2015 (4) SCC 334*, that the impugned recovery order is unsustainable. In that decision as well, a similar situation arose and the Division Bench of this Court had quashed the similar impugned recovery order.

4. In view of the settled law, the impugned order dated 20.05.2019 passed by the third respondent has to be necessarily quashed and accordingly, the impugned recovery order dated 20.05.2019 passed by the third respondent is hereby quashed and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.10.2024

(2/3)

Index : Yes / No
NCC : Yes / No
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W.P.(MD)No.15963 of 2019

ABDUL QUDDHOSE, J.

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TO:

- 1.The Director of Elementary Education,
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- 2.The Regional Account Officer, (Audit),
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Madurai.
- 3.The Chief Educational Officer,
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Order made in
W.P.(MD)No.15963 of 2019
(2/3)

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03.10.2024