



W.P.(MD)No.21673 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2024

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.21673 of 2017

and

W.M.P.(MD)No.17969 of 2017

C.Sivanantham

... Petitioner

/Vs./

- 1.The Principal Secretary To Government,
School Education Department,
St.George Fort, Chennai.
- 2.The Director of Elementary Education,
Office of Director of Elementary Education,
D.P.I Campus, Collage Road,
Chennai 600 006.
- 3.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.
- 4.The Assistant Elementary Educational Officer,
Sengottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorari, calling for the records pertaining to the



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impugned proceedings in Na.Ka.No.862 / Aa / 2017 dated 27.10.2017
passed by the 4th respondent and quash the same.

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 27.10.2017 passed by the fourth respondent.

2. Under the impugned order, the fourth 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**



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2024 in the case of *The District Elementary Educational Officer, Kanchipuram District, Kanchipuram and Another vs. V.Prabaavathy*, 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 a similar impugned recovery order.

4. In view of the settled law, the impugned order dated 27.10.2017 passed by the fourth respondent has to be necessarily quashed and accordingly, the impugned recovery order dated 27.10.2017 passed by the fourth respondent is hereby quashed and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

17.10.2024

Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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TO:

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- 4.The Assistant Elementary Educational Officer,
Sengottai, Tirunelveli District.

Order made in
W.P.(MD)No.21673 of 2017

Dated:
17.10.2024