



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.03.2025

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.4783 of 2025

and

W.M.P.Nos.5297 & 5299 of 2025

P.NitingaleChristy, aged about 60 years,  
W/o J.Blessed Singh,  
8-6, Jacob Bhavan,  
Kottaiketty,Kirathoor Post,  
Via Kollem Code,  
Kanyakumari District 629 160.

.. Petitioner

/versus/

1.The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai 600 006.

2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai 600 006.

3.The Chief Educational Officer,  
Kanyakumari, Kanyakumari District 629 001.

4.The Headmaster,



WEB COPY

Government Model Higher Secondary School,  
Munchirai, Kanyakumari District 629 171.

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2<sup>nd</sup> respondent in proceedings having Ref.No.Na.Ka.No.066021/Aa.Ka.Tha/2024, dated 13.12.2024 raising audit objection to the grant of incentive to the petitioner, who is working as P.G.Assistant in the Government Higher Secondary School, Moojirai, Kanyakumari District, for the M.Phil Degree obtained through distance education mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 31.12.2009 and quash the same as arbitrary and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance education mode along with petitioner's salary.

For Petitioner :Mr.K.Chandra

For Respondents :Mr.Mythreye Chandra, Spl.G.A.

-----  
ORDER



WEB COPY

This writ petition has been filed in the nature of Writ of Certiorified

Mandamus to call for the records of the 2<sup>nd</sup> respondent in proceedings in Ref.No.Na.Ka.No.066021/Aa.Ka.Tha/2024, dated 13.12.2024 raising audit objection to the grant of incentive to the petitioner, who is working as P.G.Assistant in the Government Higher Secondary School, Moojirai, Kanyakumari District, for the M.Phil Degree obtained through distance education mode and ordering recovery of the incentive granted to the petitioner from the salary of the petitioner from 31.12.2009 and to quash the same and consequently direct the 1<sup>st</sup> respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through distance education mode

2. The learned counsel appearing for the petitioner submitted that the petitioner was working as a P.G.Assistant in Government Higher Secondary School, Moojirai, Kanyakumari District. After obtaining necessary permission from the Head Master of the Government Higher Secondary School, Thalaikadu, Thiruvarur District, she completed her M.Phil degree from Vinayaka Missions University, Salem, in December 2009 and was



WEB COPY

awarded the M.Phil degree in July 2010. Consequently, incentive increment was granted to the petitioner. However, the second respondent issued impugned proceedings on 13.12.2024, stating that obtaining M.Phil degree through distance mode is not recognised and therefore, the incentive increment granted should be withdrawn and the amount paid to the petitioner should be recovered. Questioning this order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner pointed out the order of the Hon'ble Division Bench of this Court in W.A.No.2328 of 2018 and etc. Batch dated 04.08.2023 [*S.Sivan v. The Regional Accounts Officer, (Audit) Department of School Education, Coimbatore 641 001 and others*], wherein the Hon'ble Division Bench examined the M.Phil degree obtained from the Vinayaka Missions University at Salem through distance mode and had very specifically held as follows:-

“33.In this context, the learned Government Pleader appearing for the State has relied upon the G.O.Ms.No.91, Higher Education Department dated 03.04.2009 and has stated that the Government by the said G.O., declared that



WEB COPY



the M.Phil and Ph.D degree obtained through the correspondence or Distance Education or Open University system are ineligible for Government appointments and appointment as lecturers in colleges or Universities including self-financing colleges, therefore the import of the said G.O.Ms.No.91, dated 03.04.2009 if it is implemented that will stand in the way for extending the benefit of advance incentive increment to the teachers.

34.However, the said submission made by the learned Government Pleader is liable to be rejected because the said G.O. has only mentioned about the eligibility for a person to get employment. Here, the teachers as per earlier qualification acquired already, been appointed as teachers or lecturers and the benefit now questioned is only the grant of advance incentive increment for having acquired the higher qualification. Therefore, the G.O.Ms.No.91, dated 03.04.2009 issued by the Higher Education Department does not deal with anything about the allowing of advance incentive increment to the teachers, who acquired higher qualification, therefore, that argument made by the learned Government Pleader also is to be rejected and accordingly, it is rejected.

35.In the result, the following orders are passed in



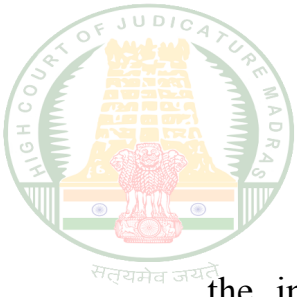
WEB COPY



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 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.”

4. The relief granted by the Division Bench would also accrue to the petitioner and the impugned order is set aside. It is directed that the petitioner has lawfully obtained M.Phil degree from the Vinayaka Missions University through distance mode and therefore, the petitioner is entitled to



WEB COPY

the incentive increments that have already been granted. Any amount recovered from the petitioner should be paid back to her and the incentive increments, which have been discontinued, should be reinstated and paid to her. The difference in salary should also be calculated accordingly. The entire exercise should be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. In the result, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.03.2025

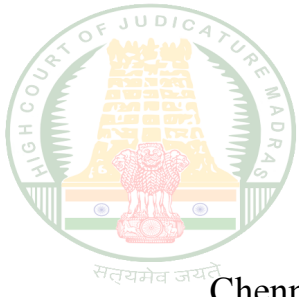
Index:yes/no  
Speaking order/non speaking order  
ari

To:

1.The Director of School Education,  
Directorate of School Education,  
DPI Campus, College Road,  
Chennai 600 006.

2.Financial Advisor & The Principal Accounts Officer,  
Directorate of School Education,  
DPI Campus, College Road,

7/9



WEB COPY

Chennai 600 006.

3.The Chief Educational Officer,  
Kanyakumari, Kanyakumari District 629 001.

4.The Headmaster,  
Government Model Higher Secondary School,  
Munchirai, Kanyakumari District 629 171.

C.V.KARTHIKEYAN, J.

ari



WEB COPY



W.P.No4783 of 2025  
and  
W.M.P.Nos.5297 & 5299 of 2025

03.03.2025