



W.P.No.25381 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.25381 of 2021
and
WMP.Nos.26806 & 26807 of 2021

C.Rajeswari

... Petitioner

vs

1. The Secretary to Government
Department of School Education,
Fort St. George,
Chennai – 600 009.
2. The Director,
Directorate of Elementary Education,
DPI Campus, College Road,
Chennai – 34.
3. The District Elementary Education Officer,
Kancheepuram District.
4. The Assistant Elementary Education Officer,
Madurantakam Taluk,
Kancheepuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the fourth respondent pertaining to his proceedings vide Na.Ka.No.219/A1/2021 dated 05.07.2021 and quash the same.

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For Petitioner : Mr.P.Anbazhagan
For Respondents : Mr.S.Prabhakaran
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents and perused the records.

2. The case of the petitioner in brief is that she was given incentive increment for possessing B.Lit., and B.Ed., degree during the period from 01.12.2011 to October 2017; and that the respondents without issuing any notice are seeking to recover an amount of Rs.2,71,050/-, claiming that the said payment has been made in excess of her entitlement and directing the petitioner to repay the aforesaid amount to the Government under the impugned proceedings dated 05.07.2021.

3. Counter affidavit on behalf of the respondents is filed.



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4. The respondents by the counter affidavit contended that the petitioner was aware of the fact of erroneous sanction of incentive increment for B.Ed., having obtained by her while working Middle School Headmaster and as such, she did not agitate and for the said reason no show cause notice is given to her.

5. I have taken note of the respective contentions as urged.

6. Though the respondents by the counter affidavit had claimed that the petitioner is aware of the fact of she not being entitled for the incentive increment and as such, no notice is required to be issued and for the said reason, the respondents authorities have issued impugned proceedings dated 05.07.2021 indicating to the petitioner that the excess paid amount is to be recovered from her and directing her to pay the same to the Treasury, it is to be noted that since, the aforesaid action of the respondents has civil consequences, the respondent authorities are required to put the petitioner on notice before undertaking any such action.



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7. Further, since the respondents, by the impugned order, seek to recover the alleged excess payment for a period of 10 years ie., from 01.07.2011 to October, 2017 and further amount from 31.12.2015 to 28.02.2021, the aforesaid recovery for the above mentioned two periods particularly in relation to the period from 01.07.2011 to October, 2017, cannot be recovered in the light of the decision of the Hon'ble Apex Court in the case of *State of Punjab & others Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334*.

8. Insofar as the recovery sought to be made by the respondents for the period from December, 2015 till 28.02.2021 is under G.O.Ms.No.303 dated 11.10.2017 under the impugned proceedings dated 05.07.2021 is concerned, as the respondents admit to the fact of no show cause notice having been issued to the petitioner, this Court is of the view that the said action of the respondents authorities straight-away seeking to recover by issuing impugned proceedings cannot be sustained.

9. Accordingly, this Writ Petition is allowed and the impugned order to the extent indicated herein above is set aside. The matter is remitted back to the respondents authorities to issue notice to the petitioner for the aforesaid period and

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consider the explanation, if any, submitted by the petitioner by passing a speaking order and serving the same on the petitioner within a period of seven days from the date of passing of the order. Consequently, connected Miscellaneous Petitions are closed. No order as to costs.

10.02.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

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T. VINOD KUMAR, J.

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