

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.06.2024

PRONOUNCED ON : 22.07.2024

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THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.(MD).Nos.13158 of 2017 and 17406 of 2019

and

WMP(MD).No.11490 of 2020 and 10249 of 2017, 13915 and 13916 of 2019

A.Kalaiselvi

... Petitioner

Vs.

1. The Chief Educational Officer,  
Madurai District,  
Office at Tallakulam,  
Opp. to Telephone exchange,  
Madurai 02.
2. The Joint Director,  
Kallar Reclamation Board,  
Madurai 20.
3. The Managing Director of Electronics,  
Corporation of Tamil Nadu,  
(ELCOT), Chennai 13.
4. The Superintendent of Police,  
Madurai Rural, Madurai District.

... Respondents

(R3 & R4 are impleaded vide order of this Court,  
dated 27.11.2023 in WP(MD).13158 of 2017 )

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order passed by the 1<sup>st</sup> respondent in Na.Ka.No.217/A4/2015, dated 16.06.2017 and quash the same as illegal.

For Petitioner : Mr.N.Ananthapadmanabhan, Senior Counsel  
for M/s.APN Law Associates

For Respondents  
for RR1,2 & 4 : Mr.Veerakathiravan, Addl. Advocate General  
for Mr.A.Kannan, AGP  
for R3 : Mr.M.Vijayan for  
M/s.King & Patridge

**W.P.(MD).No.17406 of 2019**

N.Sasikala Rani

... Petitioner

Vs.

1. The State of Tamil Nadu  
Represented by its Principal Secretary to Government,  
School Education Department,  
Fort St. George,  
Chennai 600 009.
2. The Director of School Education,  
DIP Complex, College Road,  
Chennai 600 006.
3. The Joint Director of School Education (Vocational),  
O/o. The Director of School Education,  
DPI Complex, College Road,  
Chennai 600 006.

4. The Chief Education Officer,  
O/o. Chief Educational Office,  
Thanjavur -1,  
Thanjavur District.
5. The District Education Officer,  
O/o the District Education Office,  
Thanjavur,  
Thanjavur District.
6. The Managing Director of Electronics,  
Corporation of Tamil Nadu,  
(ELCOT), Chennai 13.
7. The Superintendent of Police,  
Thanjavur District.

... Respondents

(R6 & R7 are impleaded vide order of this Court,  
dated 27.11.2023 in WP(MD).17406 of 2019 )

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4<sup>th</sup> respondent vide his impugned proceedings in Na.Ka.No.7634/Aa4/2015, dated 03.02.2016 and the consequential order passed by the 5<sup>th</sup> respondent vide his impugned proceedings Na.Ka.No.2558/A5/2019 dated 22.07.2019 and consequentially to direct the 5th respondent to issue no objection certificate and cessation certificate to the petitioner and disburse all the retirement benefits of the petitioner along with the accrued interest thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel  
for M/s.Ajmal Associates

For Respondents  
for RR1 to 5, 7 : Mr.Veerakathiravan, Addl. Advocate General  
for Mr.A.Kannan, AGP  
for R6 : Mr.M.Vijayan  
for M/s.King & Patridge

Amicus curiae : Dr.B.Ramaswamy, Advocate.

### **COMMON ORDER**

The issue involved in these two Writ Petitions is one and the same and hence they are taken up together and dispose of by a common order.

2. W.P.(MD).No.13158 of 2017 was filed for issuance of a Writ of Certiorari to call for records of the impugned order passed by the first respondent in Na.Ka.No.217/A4/2015, dated 16.06.2017 and quash the same as illegal.

3. W.P.(MD).No.17406 of 2019 is filed seeking for issuance of a Writ of Certiorarified Mandamus or any other appropriate order calling for the

records relating to the impugned order passed by the fourth respondent vide proceedings in Na.Ka.No.7634/Aa4/2015, dated 03.02.2016 and consequential order passed by the fifth respondent vide proceedings in 2558/5/2019, dated 22.07.2019 and consequently to direct the fifth respondent to issue no objection certificate and cessation certificate to the petitioner and disburse all the retirement benefits of the petitioner along with the accrued interest thereon with the period that may be stipulated by this Court.

**SUBMISSIONS OF THE WRIT PETITIONERS:**

**4. In W.P.(MD).No.13158 of 2017:**

The petitioner was working as Headmistress of Kallar Reclamation Higher Secondary School at Thadayampatti from 24.08.2015. On 19.09.2015, 71 laptops meant to be distributed to the students studying in 12<sup>th</sup> standard under the Tamil Nadu Government Scheme were delivered at School premises. The said laptops were kept under lock and key in the room provided for storing valuable articles, which is a concrete building with concrete roofing and also wooden doors provided with padlock. Everyday the Headmistress as well as the teachers will inspect the store room to verify

the availability of the laptops and make sure that they are intact. On 05.11.2015 before leaving the School at the end of the day, two teachers by name, P.Vikraman and K.Venkatesh inspected the store room and found that laptops are intact. On 06.11.2015, when the other teachers came to the School in the morning hours, they found that the store room doors are in broke open condition and immediately reported the same to the petitioner. Then the petitioner rushed to the School in advance and verified the availability of laptops and found 7 laptops are missing. The value of 7 laptops stolen from the premises amounts to Rs.99,183/-. On the very same day, the petitioner went to Ezhumalai Police Station and submitted a report about the House breaking event as well as the theft. The Police registered FIR in Crime No.191/2015, but they could not identify the culprits. The petitioner made several representations to the Police Officials to find out the culprits. But there is no progress till 2017. After several requests made by the petitioner, the Police submitted a final report to the Judicial Magistrate No.II, Usilampatti and a copy of the final report was served to the petitioner on 17.03.2017 stating that the missing laptops were untraceable. Immediately, the petitioner filed a protest petition before the concerned Magistrate Court and it is pending. Subsequently, the first

respondent issued the impugned order in Na.Ka.No.217/A4/2015, dated 16.06.2017, wherein it has been stated that it is the mistake on the headmistress of the School and the headmistress was negligent in her duty, hence she is responsible for the lost of 7 laptops and it has been ordered to deposit an amount of Rs.99,183/- within a period of one week from the date of receipt of the said order or appropriate proceedings will be initiated. Aggrieved by the said order, the present Writ Petition has been filed.

5. It is the contention of the petitioner that the School premises is not protected, it is isolated, no watchman is available and nobody is permitted to remain within the School premises after working hours and hence, the School premises is very much vulnerable and exposed to trespassers. The laptop devices were kept in the premises from 24.08.2015 and were intact till 7 items were stolen on the night between 05.11.2015 and 06.11.2015.

6. It is the contention of the petitioner that if the laptops had been distributed to the students for whom it was made for, immediately after 24.08.2015, this incident would not have happened. But the respondents were not concerned and remained lethargic in their attitude and instructed to

keep it pending as VIPs in the Government will come and dispute the same. Having said so, they have not taken any measures to protect them and now without any proceedings whatsoever, the first respondent has issued the impugned order against the petitioner making her responsible for the theft. It is the contention of the petitioner that the impugned order issued by the first respondent is highly arbitrary and highhanded and without application of mind and it is in violation of principles of natural justice.

7. It is the further contention of the petitioner that the investigating machinery failed to find out the missing laptops. As electronic identification numbers, serial numbers and special identity marks are electronically engraved in the laptops system itself and if Police as well as the District Education Authorities make a request to the manufacturer and supplier of the electronic gadget, they will easily identify the missing laptops in case they are used by the person in possession of the same when they connect it to Internet, which is an easy means to locate them. Despite several requests made by the petitioner, neither the Police nor the Educational Department Officials has taken any steps to trace the missing laptops by using the latest techniques available at present in the electronic media.



8. It is the further contention of the petitioner that the impugned order is passed without observing fair position by giving opportunity to the petitioner and no explanation was called for from the petitioner and no opportunity was provided to make her representation and as such, the impugned order is absolute breach of the principles of natural justice and it has to be set aside at the threshold.

**9. In W.P.(MD).No.17406 of 2019:**

The petitioner was working as Headmaster of the Government Higher Secondary School, Melattur, Thanjavur District during the period between 03.06.2013 and 08.08.2016. On 30<sup>th</sup> October 2015, 118 laptops were delivered in the School and the same were stored in the Zoology Lab and it is the safest room in the School. On 01.11.2015, in the midnight, out of 118 laptops, 66 laptops and 5 laptop bags were stolen. On 02.11.2015, it is found that by breaking room doors, the laptops were stolen. Immediately, the petitioner informed the incident to her higher officials vide letter dated 02.11.2015 and lodged a complaint to the Sub Inspector of Police, Melattur Police Station and the same was registered as FIR in Crime No.113 of 2015

under Sections 457, 380 of IPC. The same was informed to the third respondent along with her complaint and FIR copy. On enquiry, it was informed to her that the investigation is under progress and no accused was arrested. The petitioner informed the investigation status to the fourth respondent periodically. While that being the position, the fourth respondent vide the impugned proceedings in Na.Ka.No.7634/Aa4/2015, dated 03.02.2016, ordered to pay the amount of stolen laptops. In response to the same, the petitioner submitted a detailed explanation explaining the care taken by her for protecting the laptops. However, no further action was taken in pursuance thereof. Thereafter, all other laptops were duly distributed to the students. Once again, the fourth respondent vide proceedings dated 03.02.2016, directed her to pay the amount of stolen laptops. While so 28 laptops and 25 batteries of the laptops were recovered and the same were handed over to the fourth respondent.

10. The petitioner was due to retire on 31.03.2019 and was granted reemployment on 31.05.2019. The fourth respondent is required to issue no objection certificate and due to the reason that the petitioner did not remit the amount for the stolen laptops, she was not issued with the no objection

certificate. Hence she gave a representation dated 02.05.2019 requesting the fifth respondent to issue no objection certificate. But he did not issue NOC as the petitioner did not remit the amount for the stolen laptops. Under this circumstances, the petitioner filed Writ Petition in WP.(MD).No.11988 of 2018 before this Court. The said Writ Petition was disposed of by order dated 15.05.2019 with a direction to the fifth respondent therein to consider the application of the petitioner on or before 31.05.2019. As no action was taken, the petitioner issued a contempt notice on 20<sup>th</sup> July 2019. Immediately, the fifth respondent vide proceedings in Na.Ka.No.2558/A5/2019, dated 22.07.2019, directed the petitioner to pay Rs.5,38,422/- for stolen laptops. Aggrieved by the said order, the present Writ Petition has been filed.

11. It is the contention of the petitioner that in the said School, earlier during leave period, a pipeline was stolen and therefore the petitioner by complaint dated 19.10.2015 requested the Inspector of Police of Melattur to give suitable protection for the properties of the School and the petitioner also met him in person seeking protection to the School during night hours. But no action was taken. There was no night watchman attached to the

School. The petitioner vide representation dated 20<sup>th</sup> October 2015 requested the fourth respondent to appoint night watchman but there is no response. After delivering 118 laptops in the School on 30<sup>th</sup> October 2015, the petitioner was not given any instructions or guidelines as to how she should maintain the laptops and when it would be disbursed and by whom it will be disbursed. However, it was orally informed to her that laptops will be disbursed only by the members belonging to ruling party and will have to wait for their dates. Though there are no instructions whatever has been given to her for maintaining the laptops, instead of the same, she had taken due care. In fact it is the duty of the fourth respondent to appoint a night watchman during night hours. But no watchman was appointed in spite of repeated requests by the petitioner. The laptops were stolen from the safest room of the School and there is a grilled door to that room. But merely because laptops were stolen, the petitioner should not be held responsible for the same.

12. It is the contention of the petitioner that the impugned order directing the petitioner to remit the costs of 38 stolen laptops is without any basis nor it is supported by any material. The impugned order does not

contain any reason/basis so as to make the petitioner liable for the stolen laptops. Much prior to the impugned order though the petitioner was issued with a proceedings dated 03.02.2016 and the petitioner submitted her explanation, but the same was not referred in the impugned order. Whether the said explanation was taken into consideration or not is not known. As such, the impugned order being bereft of any reasons or materials is wholly unjust, unreasonable and highly arbitrary and violative of Article 14 of the Constitution of India.

13. It is the further contention of the petitioner that the respondents ought to have seen that the petitioner cannot be made liable for the stolen of laptops without conducting Departmental enquiry. The only course open to the respondents is to initiate appropriate Departmental proceedings to find out whether the petitioner is liable for the theft of 38 laptops or not. Without conducting Departmental proceedings, fixing liability on the petitioner is wholly unsustainable. If the same is allowed, it will amount to miscarriage of justice. It is the further contention of the petitioner that it is the fault of the higher officials of the Education Department, who are failed to give any proper instructions and protection to the laptops and petitioner has been

made as scapegoat. The petitioner contends that the order impugned in this Writ Petition is in violation of principles of natural justice and sought to set aside the orders impugned in this Writ Petition by allowing the Writ Petition.

**SUBMISSIONS OF THE EDUCATION DEPARTMENT:**

14. In the counter affidavit filed by the respondent Nos.1 and 2 in W.P.(MD).No.13158 of 2017, it is averred that in School Education Department in respect of Higher and Higher Secondary Schools, Headmasters are empowered with the full power of running Schools for which they have been paid higher pay scale more than the other teachers working in the School. The Headmaster are being empowered with higher responsibilities of administering the School controlling all staff under their control, sanctioning service benefits to their subordinates and implementing the welfare schemes that are launched by the Tamil Nadu Government from time to time. Due to this they are in a position to handle several crores of rupees in a year and they are liable to maintain proper accounts for the same. They also have to protect the valuable science and electronic articles, furniture and such other valuable items. They have been entrusted with the

responsibilities of adhering all relevant rules and regulations passed by the Tamil Nadu Government and their higher officials without any deviation. If they deviated from adhering any of the relevant rules, they have the responsibilities of rectifying all the defects, which are to be pointed out by the higher authorities during inspection, surprise visits or by the relevant Audit Department. Since the Government have introduced the scheme of free supply of laptop computers to the students from the academic year 2015-16 and each laptop costs nearly Rs.14,169/- the Headmasters are automatically held responsible for protecting them safely from theft or damage in other ways from the date of receipt of laptop computers till they are distributed to students. Being the head of Institution they should not be escaped from any loss saying that they are not being fixed with any responsibility. All the headmasters are fixed with full responsibility by the Government for receiving the laptop computers and to distribute them to the students immediately without any loss to the Government.

15. In the present case, 71 laptop computers worth Rs.10,05,999/- were delivered by the HP on 19.09.2015 to the Kallar Reclamation Higher Secondary School, Thadayampatti, Madurai for free supply to the students

during academic year 2015-16 and the above laptop computers were received by the writ petitioner herself by duly signing the delivery challan. It is stated by the petitioner that these laptops were stored in store room in her School. It is a general rule that the head of Institution is responsible for the articles handed over to them. As the free supply of laptop computers to students is continuing from the academic year 2015-16 and there were some incidents of loss/stolen of laptop computers by some culprits already taken place throughout the State, the Government of Tamil Nadu and the Director of School Education, Chennai have already issued specific instructions orally during meetings and also in written, but the writ petitioner did not care about the superior's instructions and delayed the distribution of laptops and kept in a room for a long time. Carelessness of the writ petitioner leads to the theft of 7 laptops by the culprits in the School premises of Kallar Reclamation Higher Secondary School, Thadayampatti, Madurai on 06.11.2015. It is admitted in the counter that as the Head of Institution, the petitioner should have made sufficient safety of the articles handed to her for free distribution to students. By way of theft due to the negligence of the petitioner seven students were deprived of their chance of legitimate of getting laptops and thereby spoiled their course of education. It is purely the



negligence of duty entrusted to her. The officer in-charge of combustible articles shall take appropriate steps for arranging their safety custody, proper storage accommodation including arrangements for maintaining required temperature dust free environment etc.

16. The petitioner did not make proper alternative arrangements for fixing responsibilities to other employees working in the School for the safe custody of laptop computers during night hours and adducing flimsy reasons. It is further averred that as per the Standing Instructions, an officer shall be held responsible for any loss sustained by the Government through fraud or negligence on his part. He will also be held personally responsible for any loss arising from fraud or negligence of any other officer to the extent to which it may be shown that he contributed to the loss by his own action or negligence. The Departmental proceedings for assessment of responsibility for the loss shall be conducted according to the instructions.

17. The writ petitioner has lodged a complaint before the Sub-Inspector of Police, Elumalai Police Station and the same was registered as FIR under Section 154 Cr.P.C. vide FIR No.190 of 2015. The

petitioner is accepting the responsibility if the laptops were stolen in the School hours. But even at the time of out of School hours, she is expected to make sufficient arrangements for the safety of the laptops entrusted to her for free distribution to the students. The petitioner cannot give any evading reason to escape from her responsibilities.

18. It is further averred in the said counter affidavit that the Government of Tamil Nadu in its letter in Rc.No.5243/A1/2012-25, dated 06.01.2014 instructed the Director of School Education, Chennai and in turn the Director of School Education, Chennai also issued directions to all the Chief Educational Officers in Tamil Nadu in RC.No.28972/H1/2012 dated nil.01.2014 to recover the cost of loss/theft laptop computers from the person in charge for the loss on the basis of the year in which the laptop computers were purchased along with 5% value added tax and also to take severe disciplinary action against them. Accordingly, the Chief Education Officer, Madurai in RC No.4212/A4/2013, dated 03.09.2014 fixing responsibility for the stolen laptop computers directing her to remit the amount into Government under the relevant had of account. The criminal complaint lodged by the writ petitioner is only to investigate out the culprit

and to bring him before the Court of Law for the offence committed by he culprit. The registered case cannot be taken as a compensation for the financial loss to the Government. As the theft occurred only due to the carelessness of the writ petitioner she is wholly responsible for the financial loss to the Government and therefore she has to remit the cost of 7 laptop computers in Government account. The recovery order issued by the Chief Educational Officer, Madurai is according to the Government order and there is no violation in following the relevant rules.

19. In the counter affidavit filed by the respondent Nos.1 to 5 in W.P.(MD).No.17406 of 2019 it is stated that on 30.10.2015, while the writ petitioner was working as Head Master in Government Higher Secondary School, Melattur, Thanjavur District, during 2015-16 academic year, 118 numbers of laptops issued to the petitioner for distributing to the 12<sup>th</sup> standard Students by the Chief Education Officer, Thanjavur. All the Headmasters were instructed by the Educational authorities to be vigilant while issuing Government Welfare Schemes. They were instructed by circular and conducting meetings that they should be vigilant while issuing laptops and take precautionary arrangements to safeguard the laptops,

which were handed over to them, for proper custody without any loss and if there was no night watchman in a particular School, the Headmaster was instructed to appoint night watchman through Parent-Teachers Association and Headmasters were given power to appoint night watchman for the safe custody of valuable laptops handed over to them.

20. It is further stated that out of 118 laptops kept in Zoology lab room, at Government Higher Secondary School, Melatur, 66 numbers of laptops were stolen on 01.11.2015. Therefore, a notice seeking explanation from the writ petitioner was issued, by the Chief Educational Officer why the amount for 66 numbers of laptops should not be recovered from the writ petitioner and remit to the Government account. The details of 66 numbers of stolen laptops along with copy of FIR were sent to the Joint Director of School Education (Vocational) Chennai for further action.

21. It is stated in the counter that out of 66 numbers of stolen laptops on 01.11.2015, 28 numbers of laptops were recovered after investigation by the Police on 17.06.2016 and they were handed over to the District

Collector, Thanjavur and the writ petitioner was asked to pay the amount for remaining 38 numbers of laptops worth about Rs.5,38,422/- to the Government account and the copy of receipt of payment of amount should be produced to the Chief Educational Officer, Thanjavur, immediately. Till today the above said amount has not been remitted by the writ petitioner and so many reminders were sent to the writ petitioner, but no response from her for that. The petitioner retired from service on 31.03.2019 and after retirement, she worked from 01.04.2019 to 31.05.2019 under reemployment at Government Higher Secondary Girls School, Thanjavur. Until, the petitioner pay the amount of remaining 38 laptops, NOC and cessation certificate could not be granted and the above said amount is treated as Government due and the petitioner has to pay the said amount.

22. It is further stated that based on audit objections by the Accountant General Office, Chennai and report of the present Head Master, Melattur Govt. Higher Secondary School, Thanjavur NOC and cessation certificate could not be given to the petitioner for pensionary benefits, unless, the petitioner clear the audit objections. As such the impugned order passed by the fourth respondent on 03.02.2016 and consequential impugned

order passed by the fifth respondent on 22.07.2017 are reasoned order, which do no warrant any interference by this Court and the impugned order is legally sustainable in law.

23. The Second respondent/Director of Education filed an additional affidavit dated 11.12.2023, wherein it is stated that this Court, while considering similar issue in W.P.(MD)No.4343 of 2014 passed an order dated 09.11.2020, directing the State Government to constitute a Special Committee to look into the issue involved in the theft of laptops in the Government Schools and suggest ways and means to give necessary protection for the storage of laptops at various School premises. Then this Court directed the Education Department Officers to file an affidavit with regard to the action taken in compliance of the order dated 09.11.2020 in W.P.(MD)No.4343 of 2014. Accordingly, the Director of School Education, Chennai filed an affidavit, wherein it is stated that consequent to the orders passed by the High Court, in W.P.(MD)No.4343 of 2014, the State Government has constituted a Committee was constituted vide G.O.Ms.No.102, School Education dated 07.07.2021. The meeting of the Committee was held on 18.04.2023 and the Committee has concluded that

the Headmaster could not be held responsible for the theft of laptops, unless, the criminal case filed against the laptop theft are concluded. In view of the same, it has been decided that the Headmaster those who have immediately complained of the thefts of laptops with the jurisdictional Police authorities and registered FIRs will be permitted to receive the terminal benefits and they will not be imposed with the recovery for the stolen laptops. It is also stated that in case of not being complained to the jurisdictional police authority concerned, appropriate disciplinary action will be taken against the Headmasters as per the applicable Rules. It is further stated that there are totally 140 Headmasters all over the State were found with laptops stolen in their custodies and among them 59 Headmasters remitted the recovery amounts imposed by the Department and others filed Writ Petitions that are pending in the High Court.

24. During the course of hearing on 27.11.2023 this Court opined that it is necessary to implead the concerned Police officers, who conducted investigation into the case of theft of laptops and Electronics Corporation of Tamil Nadu (ELCOT), Chennai, which was entrusted with the work of procuring and supply of laptops as respondents for better appreciation of the

case. Accordingly, the Managing Director of Electronics Corporation of Tamil Nadu and Superintendent of Police of Madurai Rural, Madurai District and Superintendent of Police, Thanjavur District were impleaded as respondents in these Writ Petitions, respectively.

**SUBMISSIONS OF THE POLICE DEPARTMENT:**

25. The Superintendent of Police, who was impleaded as respondent No.4 in W.P.No.13158 of 2017 filed status report dated 12.12.2023, wherein it is stated that basing on the complaint given by the petitioner an FIR was registered in Elumalai Police Station in Cr.No.190/2015 under Sections 457 and 380 IPC. Immediately, upon registration of FIR, investigation was taken up by Mr.Mayandi, Sub Inspector of Police, Elumalai Police Station and he visited the scene of crime and observed that the front door of the computer room was broken and 7 Government issued laptops were found missing. Immediately, thereafter Finger Print Team lead by Inspector Mr.Sundarbabu was called to the scene of crime and the team inspected the scene of crime and lifted 2 chance prints and upon comparison, it matched with the finger prints of inmates



viz., Mr.K.Venkatesan, 12<sup>th</sup> standard English teacher. 6 witnesses were enquired by the Investigating Officer and recorded their statements under Section 161(3) Cr.P.C. Mr.Kannan, Sub Inspector of Police took up the investigation upon transfer of previous investigating officer Tr.Mayandi and since there were no clues in this case, a referred charge-sheet/final report was filed before the Judicial Magistrate No.II, Usilampatti on 17.03.2017 and notice was issued to the defacto complainant i.e., the petitioner. The final report was accepted by the Court and the case was closed on 21.07.2017. It is stated that apart from the utilization of the Finger Print Team in examination of scene of crime, no other scientific aids were used in the investigation of the case. Now, on 08.12.2023, on the instructions of Superintendent of Police, Madurai District, Inspector of Police, Cyber Crime Police Station, Madurai District, requested ELCOT to furnish certain details regarding 7 laptops, which were stolen from the Government Kallar Higher Secondary School, Thadaiyampatti, Elumalai. Since it is almost 8 years old case, ELCOT has requested some time to furnish all the details such as make, model, serial number, MAC-ID and vendor contact details.

26. It is further stated that based on MAC-ID of the laptops, it is possible to trace the location of these laptops. Hence, once these details are received from the ELCOT, further investigation will be carried out and all efforts will be made to trace the stolen laptops.

27. The Superintendent of Police, Thanjavur, who was impleaded as respondent No.6 in Writ Petition No.17406 of 2019 filed an affidavit, wherein it is stated that on the complaint of the petitioner about the theft of laptops, a case was registered in Crime No.113 of 2015 in Melattur Police Station. On investigation conducted on 24.11.2015, a broken lock was found in the scene of crime under Seizure Mahazar dated 24.11.2015 and the same was forwarded to the Judicial Magistrate No.III, Thanjavur by the Investigation Officer. On his transfer on 30.11.2015, another Investigating Officer managed to seize 28 laptops from a stranded bushy area outside the school compound. The said 28 laptops were produced before the Judicial Magistrate No.III, Thanjavur on 14.06.2016. The accused Chinnappar S/o Arockiasamy and Sadasivam S/o. Ganesan of Vadakkumangudi Thanjavur District were arrested on 10.12.2017. Based on their confession, one laptop was seized under the cover of Seizure Mahazar and produced before the

Judicial Magistrate Court No.III, Thanjavur. On perusal of CD file it is inferred that the case was charge sheeted on 20.02.2018 and it is numbered as C.C.No.31 of 2018 and it is pending before the concerned Magistrate Court.

28. It is stated that a Special Team was formed comprising of Sub-Inspector of Police and Constable and a requisition was sent on 09.12.2015 to the General Manager of ELCOT, Chennai to obtain MAC number for all missing laptops by obtaining serial numbers from School Management. But no communication was received from ELCOT and LENOVO. It is further submitted Cyber Crime Unit was formed across Tamil Nadu in the Districts during 2018 and prior to that the services of cyber crime unit were availed from the erstwhile Cyber Crime unit functioning in State Head Quarters and Zonal Offices. Hence on 06.12.2023, a memorandum in C.No.800/SB-CAMP/TAN/2023 was issued directing Additional Superintendent of Police, Cyber crime to supervise the investigation in the above case and also to assist the Investigating Officer to find the missing laptop by availing all scientific methods.

**SUBMISSIONS OF THE ELCOT:**

29. The Managing Director of Electronics Corporation of Tamil Nadu, who was impleaded as respondent in both the Writ Petitions filed their affidavit, wherein it is stated that after the order, dated 27.11.2023 passed by this Court, first time ELCOT received a letter dated 10.11.2023 on 11.12.2023 from the Circle Inspector, Aiyampettai Police seeking MAC address of 38 laptop computers. As the matter pertains to the year 2015, they approached Lenovo to furnish the MAC address of the 38 laptop computers and the same was furnished to the circle Inspector on 10.01.2024. In respect of 7 laptop computers stolen from the Government Kallar Higher Secondary School, Thadayampatti, Peraiyur Taluk, Madurai District, for the first time, ELCOT received an email dated 08.12.2023 from the Inspector of Police, Cyber Crime Police Station, Madurai District. On receipt of the said email, they have obtained MAC address of 7 laptop from the Lenovo and furnished the details to the Inspector of Police vide email dated 04.01.2024.

**REPORT OF THE LEARNED AMICUS CURIAE:**

30. Dr.B.Ramaswamy, learned Advocate is requested as Amicus Curiae to look into the issue whether is it possible to trace the stolen laptops by using the particulars of the devices as per MAC Number and IP address etc. Accordingly, learned Amicus Curiae has placed his report wherein it is stated that investigating agency can leverage IP addresses assigned by ISPs to track devices connected to the Internet. The laptops can be traced by MAC address subject to the condition that laptop is not dismantled and remains intact and the laptop should be directly connected to the internet without using proxy. He also suggested to encourage the use of laptop tracking software that can provide real time location data. He also suggested to promote the development of expertise in Cyber Security within the Police force to better understand the complexities of modern theft cases involving technology.

31. Heard Mr.N.Ananthapadmanabhan, learned Senior Counsel appearing for the petitioner in W.P.(MD).No.13158 of 2017 and Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner in

W.P.(MD).No.17406 of 2019, Mr.Veerakathiravan, learned Additional Advocate General appearing for Mr.A.Kannan, learned Additional Government Pleader for State and Mr.M.Vijayan, learned counsel appearing for M/s.King & Patridge, learned Standing Counsel for the ELCOT and Dr.B.Ramaswamy, learned Amicus curiae. Perused the materials available on record carefully.

**ANALYSIS, OBSERVATIONS AND FINDINGS OF THE COURT:**

32. Basing on the announcement made by His Excellency the Governor of Tamil Nadu, in His address in the Legislative Assembly on 03.06.2011, The State Government of Tamil Nadu had decided to implement a Scheme of free distribution of laptop computers to the Students studying in the Government and Government Aided Schools and Colleges in the State to facilitate them in acquiring better computer skills. Thereafter, the State Government has been distributing laptops to the students continuously for every academic year. After starting implementation of the Scheme of free distribution of laptop computers to the students, this Court has evidenced that number of cases were registered

for the theft of the laptops in the Government Schools and FIRs were registered basing on the complaint made by the Headmasters of the concerned Schools. After some time, FIRs were closed following the filing of final report. Thereafter, the Education Department Officers are used to issue proceedings for recovery of the value of the stolen laptops from the Headmaster/Headmistress of the concerned Schools. When such a recovery orders are passed by the Educational Department Officers, the concerned Headmaster approached this Court by filing Writ Petitions. It appears that several Writ Petitions are disposed of by setting aside the recovery orders, which were passed against the principle of natural justice and in some Writ petitions, the Headmasters are made responsible for the theft of the laptops.

33. In view of the above factual position it is an admitted fact that for the implementation of the Scheme of free distribution of laptop computers to the students studying in the Government and Government Aided Schools and Colleges, the State Government has been spending thousands of Crores of rupees of public money every year. As such, proper mechanism is required for better implementation of the scheme. This issue involved greater public importance.

34. To give effect to the Directive Principles of State Policy enshrined in Part IV of the Constitution of India, the State shall ensure to promote with special care the educational interests of the students in general and of the weaker sections in particular and accordingly, the State Government of Tamil Nadu has been taking steps for implementation of welfare schemes for the development and upliftment of poor and marginal sections of society. This Court will not come in the way of the Government to implement such schemes, as such efforts are laudable.

35. The State Government has introduced the scheme of distribution of laptop computers at free of cost to the students from the academic year 2011-12 and it is decided to distribute free laptops to 9.12 lakhs students by sanctioning a sum of Rs.912 crores vide GO.Ms.No.1, Special Programme Implementation Department dated 03.06.2011. Definitely, for the subsequent years also, some more amount had been spent out of the public exchequer to implement the scheme. But, as and when such schemes are being implemented by spending crores of rupees out of the public exchequer, it is the responsibility of the Government to prescribe certain procedures, formulate such mechanism and methodology for strict



implementation of the schemes so as to reach the benefits of the scheme to the real beneficiaries without any difficulty or pilferage and to protect the public money.

36. It is an undisputed fact that most of the Schools are not in a secured position. The Headmasters and Teachers are not expected to stay in the School premises during night time also to safeguard the free laptops stored in the School premises. No one can compel the Headmasters and teachers to stay in the school premises during night time also. It is for the Government to take steps to make necessary arrangements for storage of laptops till its distribution and to provide adequate security. Without taking all these steps, making Headmasters as 'scapegoats' for the theft of the laptops stored in School premises is undoubtedly irrational, unjust and unreasonable.

37. On careful perusal of the orders impugned in the present Writ Petitions, and careful examination of the entire material available on record it is established that show cause notice was not issued to the petitioners to

enable them to submit their explanation and no opportunity was provided to them to put forth their version before passing impugned orders of recovery of the amount (i.e) cost of the stolen laptops. It is clear that the orders were issued in violation of the Principles of natural justice. In view of the aforesaid discussion, this court has reached to the conclusion that the Orders impugned in the present Writ Petitions are not sustainable in law and the same deserves to be set aside.

38. This Court intends to visualize the situation in a different angle. It is an admitted fact that “teaching profession” is a “noble profession”. The duties and responsibilities of Headmasters and teachers are very significant. Though, headmasters are having some administrative responsibilities, their primary duty is to teach the students as teacher. No one can compare the services of teachers with any other services. The students take their teachers as their role models. It is the responsibility of the teachers to mould students to become better citizens of our country by motivating them and by providing proper guidance.

39. But as evident from the averments at Para No.10 of the counter affidavit filed by the Education Department authorities in W.P.No.13158 of 2017 it is very sad to note that the Education Department officers are treating the Head Masters/teachers as in-charges of stores. The attitude of the Education Department Officers in comparing the services of the Headmasters and Teachers with the duties of in-charges of stores i.e., store keepers is condemnable and unacceptable.

40. It is also evidenced from the communications sent to the petitioners by the Education Officers, wherein they were directed to go to the Police Station frequently to pursue the complaint with the concerned Police officers and directed to report the status of the Criminal cases registered in this regard. The duty of the teachers is to teach the students and it is not their duty to visit the Police Station frequently to pursue the case. As the laptop theft was happened in the School premises, it is the responsibility of the concerned Headmaster to give Police complaint. Thereafter, the Education Department Officers of the concerned area has to

make correspondence or pursue with the concerned Police Officers about the case. Instead of doing that, they are directing the Headmasters to go to the Police Station frequently to pursue the cases, which will certainly embarrass the Headmasters, who are having respectful position in the Society. At this stage, it may not be out of place to remind ourselves of the unfortunate incidents we came to know through print and electronic media that in one neighboring State, Teachers are deployed to control the mobs at wine shops during Corona time. Such acts, certainly, will affect the 'right to live with dignity and honour' of the teachers as guaranteed under Article 21 of the Constitution of India.

41. The opinion of this Court is fortified by the expressions and observations of the Apex Court and this Court as extracted herein under:

i) The Apex Court in the case of *Avinash Nagra Vs. Navodaya Vidyalaya Samiti and others*, reported in 1997(2) SCC 534, has considered the significant role of teachers and observed as follows:

*“10.Mahatma Gandhi, the Father of the Nation has stated that  
“a teacher cannot be without character. If he lacks it, he will be like*

*salt without its savour. A teacher must touch the hearts of his students. Boys imbibe more from the teacher's own life than they do from books. If teachers impart all the knowledge in the world to their students but do not inculcate truth and purity amongst them, they will have betrayed them. ...*

*.....Dr.S.Radhakrishnan has stated that "we in our country look upon teacher as gurus or, as acharyas. An Acharya is one whose aachar or conduct is exemplary. He must be an example of Sadachar or good conduct. He must inspire the pupils who are entrusted to his care with love of virtue and goodness. ...."*

*"11. It is in this backdrop, therefore, that the Indian society has elevated the teacher as "Guru Brahma, Gurur Vishnu, Guru Devo Maheswaraha". As Brahma, the teacher creates knowledge, learning, wisdom and also creates out of his students, men and women, equipped with ability and knowledge, discipline and intellectualism to enable them to face the challenges of their lives. As Vishnu, the teacher is preserver of learning. As Maheswara, he destroys ignorance. ...."*

ii) In ***Andhra Kesari Educational Society V. Director of School Education***, reported in (1989) 1 SCC 392 the Apex court observed as follows:

*"20. The teacher alone could bring out the skills and intellectual capabilities of students. He is the "engine" of the educational system. He is a principal instrument in awakening*

*the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefitter.”*

iii) A Full Bench of this Court in its judgment in ***R.Chitra and Ors. vs. Member Secretary, Government of Tamil Nadu and Others*** reported in MANU/TN/3992/2021, considering the importance of the teaching profession has observed as follows:

*“24. The teaching profession is not like any other profession and the teacher’s service cannot be compared with any other ministerial service. Teachers are the cornerstone of society as they are the real nation builders. Teachers are the people who mould the children and inculcate values to children to become better citizens and leaders of tomorrow. A teacher is the role model of his student and should therefore, be well equipped to deal with his students. A teacher should be able to assess the strength and weakness of the students and provide proper guidance and training, they should be the source of inspiration and motivation to the students and should have the compassion, passion for learning and understanding.”*

42. In view of the above, this court is of the opinion that entrusting the work to store and safeguard the laptops to the Headmasters working in the Government and Government Aided Schools and Colleges and making them responsible for the incidents of thefts is irrational, unjust and unreasonable and it degrades the stature and dignity of teaching profession.

43. Now, we will consider the issue from the students angle. By spending much time to pursue the cases registered for theft of laptops with the Police frequently as per the direction of the Education Department authorities, certainly, those Headmasters may not be in a position to spend sufficient time to teach the students, which will affect the students very badly. Ultimately, sufferers are the students who are studying in those Schools hailed from poor and vulnerable sections.

44. In the opinion of this court the Government can utilize the services of Headmasters to the extent to get the particulars of the eligible students and to take assistance for distribution of laptops properly to the eligible students. But, fixing the responsibility on the Headmasters for the storage and safe custody of the laptops meant for distribution is not

acceptable. In some cases, it is noticed that for distribution of laptops to the students by the public representatives and for their convenient dates, the Distribution has been put on hold for number of days and laptops have been stored in the Schools till distribution. If these laptop computers are stored in a central place under the safe custody of the Police and if it is delivered on the day of the distribution to the School, the question of theft of laptops in Schools does not arise. Therefore, the Government has to formulate such procedure for the better implementation of the scheme.

45. Under these circumstances, in the considered opinion of this court, utilizing the service of the teachers, which are unconnected to the educational activities, other than teaching leads to the destruction of the education system and it directly affects the future of the students studying in those Schools.

46. At this juncture, it is relevant to look into the Section 27 of The Right of children to free and compulsory education Act,2009 ( Act 35 of 2009) as extracted herein under:

**“27.Prohibition of deployment of teachers for non-educational purposes.-** No teacher shall be deployed for any



non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be.”

47. A bare reading of Section 27 of the Act 35 of 2009, it is clear that the intention of the Parliament is to provide more time to the teachers to the class room work in the interest of students by prohibiting deployment of teachers for non-educational purposes, other than decennial population census, disaster relief duties or duties relating to elections to local authority, state legislatures and parliament. This provision will ensure that more time is available to teachers for school/classroom interaction and that teachers are not deployed for work that takes them away from their classroom responsibilities. The same analogy has to be adopted to protect the interests of the students who are studying in higher educational institutions also.

48. In these 2 Writ Petitions concerned Police Officials filed their final report and charge sheet. But, it appears that no scientific investigation was conducted to trace the stolen laptops. As per the contentions of the ELCOT in their affidavit, the concerned Police Officials, who are investigating the case of theft of laptops, first time vide letter dated

10.12.2023 and email dated 08.12.2023 only, sought MAC address of the stolen laptops. As such, it is clear that from the date of occurrence of crime, the concerned Police/investigating agency did not conduct proper scientific investigation by collecting necessary information from the ELCOT about the stolen laptop devices. The Government has to instruct the Police Department to conduct scientific investigation in such cases by using the latest technology.

49. In view of the importance of the issues as discussed herein above which are attracting the larger interests of the Teachers, Students and public exchequer, this Court in exercise of the extraordinary jurisdiction conferred under Article 226 of the Constitution of India intends to issue certain directions to the State Government. In this context, it will be profitable to this Court to rely on the following decisions of the Apex court.

i) In a recent Judgment of the Apex Court in ***Central Council for Research in Ayurvedic Sciences and Others vs. Bikartan Das and Others*** reported in MANU/SC/0888/2023 has observed as extracted hereunder:

*“51. ...Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded*

*on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.”*

ii) In ***Bandhua Mukti Morcha vs. Union of India (UOI) and Others*** reported in MANU/SC/0051/1983, the Apex Court had observed as extracted hereunder:

*“20. ... In fact, the jurisdiction of the High Courts under Article 226 is much wider, because the High Courts are required to exercise this jurisdiction not only for enforcement of a fundamental right but also for enforcement of any legal right and there are many rights conferred on the poor and the disadvantaged which are the creation of statute and they need to be enforced as urgently and vigorously as fundamental rights.”*

iii) In ***Dwarka Nath vs. Income Tax Officer, Special Circle D-ward, Kanpur and Others*** reported in MANU/SC/0166/1965, the Apex Court had opined that the High Courts can also issue directions, orders or writs other than the prerogative writs. It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this Country.

50. Accordingly, in exercise of the extraordinary jurisdiction conferred under Article 226 of the Constitution of India the following directions are issued to the State Government:

(1) The services of the Headmasters and Teachers shall not be utilised for any other purpose which is unconnected to teaching and school administration, subject to the duties to be performed under any Law.

(2) The State Government is directed to formulate a comprehensive procedure/modalities for implementation of the Scheme of distribution of free laptops to the students in Government and Government Aided Schools and Colleges including providing proper storage facilities and security.

(3) The State Government is directed to ensure that the Police Department shall take up the scientific investigation with respect to the cases registered for the theft of laptops provided under the scheme by using latest technology.

(4) The impugned order in W.P.(MD) No.13158 of 2017 passed by the 1<sup>st</sup> respondent in Na.Ka.No.217/A4/2015, dated 16.06.2017 is Set-aside.

(5) The impugned orders in W.P.(MD) No.17406 of 2019 passed by the 4<sup>th</sup> respondent in Na.Ka.No.7634/Aa4/2015, dated 03.02.2016 and the order passed by the 5<sup>th</sup> respondent in Na.Ka.No.2558/A5/2019 dated 22.07.2019 are set aside.

(6) Pensionary benefits of the Petitioner in W.P.(MD) No.17406 of 2019 shall be settled forthwith.

51. In the result, the Writ Petitions are allowed.

52. No order as to costs.

53. Consequently, connected miscellaneous petitions are closed.

54. Before parting with this case, this Court is placing appreciation on record for the assistance rendered by Mr.M.Vijayan, leaned counsel for ELCOT, Mr.A.Kannan, learned Addl. Government Pleader, Dr.B.Ramaswamy, learned Amicus Curiae, Ms.A.Ananthi, Law Clerk (Madurai) and Ms.A.Senbaga, Law Clerk (Chennai).

22.07.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs

Note: The Registrar (Judicial) is directed to communicate a copy of this order to the Chief Secretary, Government of Tamil Nadu to enable him to issue necessary instructions to concerned.

To

1. The Principal Secretary to Government,  
The State of Tamil Nadu  
School Education Department,  
Fort St. George, Chennai 600 009.
2. The Director of School Education,  
DIP Complex, College Road,  
Chennai 600 006.
3. The Joint Director of School Education (Vocational),  
O/o. The Director of School Education,  
DPI Complex, College Road,  
Chennai 600 006.
4. The Chief Education Officer,  
O/o. Chief Educational Office,  
Thanjavur -1, Thanjavur District.
5. The District Education Officer,  
O/o the District Education Office,  
Thanjavur, Thanjavur District.
6. The Managing Director of Electronics,  
Corporation of Tamil Nadu,  
(ELCOT), Chennai 13.
7. The Superintendent of Police,  
Thanjavur District.
8. The Chief Educational Officer,  
Madurai District,  
Office at Tallakulam,  
Opp. to Telephone exchange,  
Madurai 02.
9. The Joint Director,  
Kallar Reclamation Board,  
Madurai 20.
10. The Managing Director of Electronics,  
Corporation of Tamil Nadu,  
(ELCOT), Chennai 13.
11. The Superintendent of Police,  
Madurai Rural, Madurai District.

W.P.(MD).Nos.13158 of 2017 and 17406 of 2019

**BATTU DEVANAND.J.,**  
pvs

Pre-delivery order in

W.P.(MD).Nos.13158 of 2017 and 17406 of 2019

22.07.2024