

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.14454 of 2014
and M.P.No.2 of 2014

THE SECRETARY
RAJIV GANDHI COLLEGE OF ENGINEERING
NEMILI, SRIPERUMBUDUR 602 105

[PETITIONER]

Vs

- 1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY
DEPARTMENT OF HIGHER EDUCATION
FORT ST. GEORGE CHENNAI-9
- 2 THE COMMISSIONER/DIRECTOR
OF TECHNICAL EDUCATION
DIRECTORATE OF TECHNICAL EDUCATION
GUINDY CHENNAI-25
- 3 THE ALL INDIA COUNCIL FOR
TECHNICAL EDUCATION
REP. BY ITS MEMBER SECRETARY
CHANDRALOK BUILDING JANPATH NEW
DELHI 110 002
- 4 THE ANNA UNIVERSITY
REP. BY ITS REGISTRAR GUINDY 600 025
CHENNAI TAMILNADU
- 5 THE UNIVERSITY GRANTS COMMISSION
REP. BY ITS SECRETARY BAHADUR
SHAHZAFAR MARG NEW DELHI 110 002

[RESPONDENTS]

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records relating to the impugned order issued by the 1st respondent State Government vide Government Lr.D.No.200 Higher Education (JI) Department 28.8.2009 quash the same in so far as it restricts the status of the petitioners college as a Christian Minority Educational Institution to a limited period of 5 years from 2007-2008 to 2011-2012.

For Petitioner : Mr.P.Godson Swaminath

For Respondents : Mr.R.Vijayakumar, AGP (R1&2)
Mr.A.L.Ganthimathi, R3
Mr.M.Vijayakumar (R4)
Mr.P.R.Gopinath (R5)

ORDER

Heard Mr.P.Godson Swaminath, learned counsel for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader for R1 & R2, Ms.A.L.Ganthimathi, learned counsel for R3, Mr.M.Vijayakumar, learned counsel for R4 and Mr.P.R.Gopinath, learned counsel for R5 and with their consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the letter of the 1st respondent State Government dated 28.8.2009, insofar as it restricts the status of the petitioner's college as a Christian Minority Educational Institution to a limited period of 5 years from 2007-2008 to 2011-2012.

3. The petitioner Institution is established by "The Gulf Returnees Educational Society" formed by the Indians Non-resident, belonging to Christianity and the said Society has established the petitioner Engineering College in 2001 offering various UG and PG courses. The College has been approved by the All India Council and it is affiliated to Anna University. It is stated that the College is accredited to National Board of Accreditation (NBA). The petitioner in this writ petition is aggrieved by that portion of the letter communicated by the 1st respondent dated 28.08.2009. By the said letter, the 1st respondent conveyed the approval of the Government for continuance of minority status already conferred on the petitioner Institution vide Government letter Ms.No.234, Higher Education J-1 Department, dated 28.07.2005, for a period of 5 years from 2007-2008 to 2011-2012. The petitioner is aggrieved by that portion of the impugned letter restricting approval for a period of 5 years from 2007-2008 to 2011-2012.

4. It is submitted by the learned counsel for the petitioner that the issue which has been raised in this writ petition is squarely covered by the decisions of this Court in the case of The Secretary, Loyala College (Autonomous) vs. The State of Tamil Nadu and others reported in 2012 (2) CWC 728 and the decision of the Hon'ble Division Bench in the case of Secretary, Jeyaraj Annapackiam College for Women vs. State of Tamil Nadu reported in (2013) 8 MLJ 509i which have been followed W.P.No.14123 of 2012 dated 17.03.2015.

5. In the above referred matters, this Court considered the similar contentions raised as to whether the Government was justified in restricting the recognition granted recognizing the Institution as a minority institution for a specified period. Accepting the contention of the Institution and repelling the contention raised by the Government, the orders rejecting the recognition of the minority Institution for a specified period was held to be unsustainable.

6. At this stage, it would be beneficial to refer to the operative portion of the Judgment of the Hon'ble Division Bench reported in (2013) 8 MLJ 509, cited supra, which read thus:-

"6. The reason given by the learned single Judge for distinguishing the said judgment is that the matter is pending before the Hon'ble Supreme Court regarding the issue of grant of minority status to linguistic minorities. It is relevant to note herein that the appellant College is a religious minority institution viz., Christian religion. It may be noted that Christians are minorities not only throughout India but also in the State of Tamil Nadu. The same is also made clear in the Government Order issued in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. In paragraph 8(vi), it is stated that to decide whether an applicant is a minority or not based on religion or language, the total population of that minority in the State of Tamil Nadu shall be taken into consideration and not the population of that minority in any particular region where the educational institution is situated. Therefore, it is evident that the impugned order restricting minority status which was upheld by the learned Single Judge is without noticing the said guidelines issued by the Government itself in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. It is also to be noted that the said Government Order, nowhere states that minority status can be given to a limited period. The Government is also not doubting the claim of minority status of the appellant-College. Hence, the order restricting the period is without any rhyme or reason.

7. We are in entire agreement with the Division Bench judgment of this Court reported in Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal, Medical, Educational and Charitable Trust, Salem vs. State of Tamil Nadu stated supra. Accordingly, the order of the learned Single Judge

is set aside. The minority status given to the appellant will hold good without any restriction period. However, if the respondents are able to find any change in the constitution of educational agency or if the institution is run contrary to the Memorandum of Association/Bye-laws of the Society, it is open to the Government to issue notice and take appropriate decision in accordance with law".

7. The learned counsel appearing for the respondents are not able to distinguish the decisions referred supra nor able to produce any record to show that the petitioner Institution has to be treated differently.

8. In the light of the above, following the decisions referred supra, the writ petition is allowed as prayed for and that portion of the impugned letter limiting the recognition of the status of the petitioner Institution as to the Christian Minority Educational Institution only for 5 years is set aside and the Institution shall be treated as a Christian Minority Educational Institution without any restriction.

No costs. Connected miscellaneous petition is closed.

rg

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

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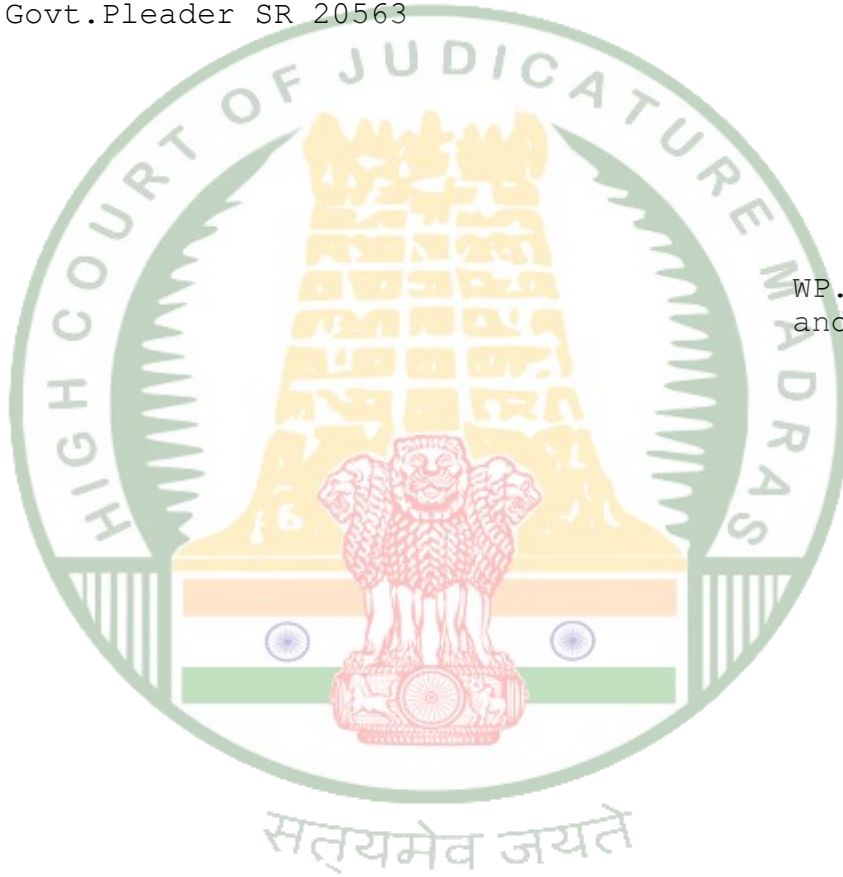
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+ 1 cc to Mr.Isaac Mohanlal, Advocate SR 20204

+ 1 cc to Mr.P.R.Gopinathan Advocate SR 20197

+ 1 cc to Govt.Pleader SR 20563

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