

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.25045 of 2015
& M.P.Nos.1 and 2 of 2015

The Principal & Secretary,
St. Christopher's College of Education,
Vepery, Chennai 600 007. Petitioner

-vs-

1. The State of Tamilnadu
rep. by its Principal Secretary
Department of Higher Education (E),
Fort St.George, Chennai-9
2. The Director of Collegiate Education,
College Road, Chennai-6
3. The Regional Joint Director
of Collegiate Education,
Chennai Region, Chennai-15
4. Tamilnadu Teachers Education University
rep. by its Registrar
Lady Willingdon College Campus,
Chennai-5
5. The Regional Director
Southern Regional Committee,
National Council for Teacher Education,
Nagarahavi, Jnana Bharathi Campus Road,
Opp. National Law School, Bangalore.
6. The University Grants Commission
rep. by its Secretary,
Bahadur Shahzafar Marg,
New Delhi 110 002.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari calling for the records relating to the impugned G.O.Ms.No.139, Higher Education (E1) Department dated 20.5.2009 issued by the 1st respondent State Government quash the same in so far as it restricts the status of the petitioner college as a Christian Minority Educational Institution to a limited period of 5 years from 2007-2008 to 2011-2012.

For Petitioner : M/s. Isaac Mohanlal

For Respondents 1 to 3: Mr.P.Sanjay Gandhi, AGP

For Respondent-4 : Mr. V.Venkatesan

For Respondents 5 & 6 : Mr.P.R.Gopinathan

ORDER

Petitioner is a minority Institution. By the Government Order passed in G.O.Ms.No.139, Higher Education (E1) Department, dated 20.05.2009, the minority status given earlier to the petitioner was extended for a period of five years [2007-08 to 2011-12]. Contending that the restriction made is contrary to the judgment of the Division Bench of this Court which has also been taken note of by a subsequent Division Bench judgment rendered in Secretary, Jeyaraj Annapackiam College for Women, Tiruchirapalli vs. State of Tamil nadu, rep. by its Secretary and Others, reported in 2013 (8) MLJ 509, the present writ petition has been filed.

2. This Court after taking note of the earlier Division Bench judgment referred supra has been held as follows in W.P.No.14454 of 2014:

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.

3. Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that certain clarifications/queries have been sought for by the respondents. Therefore, the petitioner will have to respond and comply with the same.

4. This Court is of the view that the said issue constitute a separate cause of action. Thus, while it is always open to the respondents to take appropriate action as per law, and the same cannot be a ground to support the impugned order passed on 20.05.2009. Accordingly, the impugned order dated 20.05.2009 is set aside in so far as the restriction of five years is concerned, consequently the limitation of five years as mentioned is hereby set aside and the petitioner's institution shall be treated as minority educational institution without any restrictions. However, this order is passed without prejudice to the right of the first respondent to proceed in accordance with law in pursuant to the letters dated 12.07.2013 and 07.11.2013. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

smi

To

1. The Principal Secretary,
State of Tamilnadu
Department of Higher Education (E),
Fort St.George, Chennai-9
 2. The Director of Collegiate Education,
College Road, Chennai-6
 3. The Regional Joint Director
of Collegiate Education,
Chennai Region, Chennai-15
 4. The Registrar,
Tamilnadu Teachers Education University,
Lady Willingdon College Campus,
Chennai-5
 5. The Regional Director
Southern Regional Committee,
National Council for Teacher Education,
Nagarahavi, Jnana Bharathi Campus Road,
Opp. National Law School, Bangalore.
 6. The Secretary,
University Grants Commission
Bahadur Shahzafar Marg,
New Delhi 110 002.
- +2 ccs to Mr.P.R.Gopinathan Advocate sr.67020
+1 cc to Mr.V.Venkatesan Advocate sr.66987
+1 cc to M/S.Isaac Mohanlal Advocate sr.66901
+1 cc to the Government Pleader sr.67218

सत्यमेव जयते

W.P.No. 25045 of 2015

aa05/01/2016

WEB COPY