

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.PAUL VASANTHAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.A.Nos.2299 and 2300 of 2012

Association Of Self Financing
Arts, Science and Management Colleges
Of Tamil Nadu,
rep. by its Secretary A.M.M.Khaleel,
86, West Club Road,
Race Course,
Coimbatore-641 018.

... Appellant in
both appeals/ Petitioner

Vs.

1.State of Tamil Nadu,
rep. by its Secretary to Government,
Higher Education Department,
Secretariat, Chennai-9.

2.The Registrar,
Bharathiar University,
Coimbatore-641 046.

... Respondents in
both appeals /
Respondent

Writ Appeals are preferred under Clause 15 of the Letters Patent against the common order dated 05.6.2012 made in W.P.Nos.8144 and 37099 of 2007.

presented under article 226 of the constitution of India to issue a writ of certiorari to call for the records of the 2nd respondent in i.Proceedings No.16306-1/A2/2007 dt 16.02.2007 ii.No.BU/R/A1/2007/13027 dated 14.9.2007 and quash the same.

For Appellants
In both appeals

: Mr.R.Natarajan

For Respondents
In both appeals

: Mrs.A.Shrijayanthi
Special Government Pleader for R1
Mr.S.T.S.Moorthy for R2

COMMON JUDGMENT
(Delivered by N.PAUL VASANTHAKUMAR, J)

Heard Mr.R.Natarajan, learned counsel appearing for the appellant and Mrs.A.Shrijayanthy, learned Special Government Pleader appearing for the 1st respondent and Mr.S.T.S.Moorthy, learned counsel appearing for the 2nd respondent.

2. These writ appeals are filed against the common order made in W.P.Nos.8144 and 37099 of 2007, dated 5.6.2012.

3. In W.P.No.8144 of 2007, the appellant has prayed to quash the order of the 2nd respondent directing the affiliated colleges to have College Committee and the procedure by constitution of the College Council and norms for appointing teaching staff prescribed. In W.P.No.37099 of 2007, the appellant has prayed to quash the Circular dated 14.9.2007 issued by the 2nd respondent to the Colleges affiliated to the 2nd respondent stipulating various conditions.

4. The case of appellant association before learned single Judge was that the appellant association is a recognised association consisting of management of all Unaided Private Arts and Science Colleges and the members of the association includes both management of minority and non-minority Colleges. The non-minority members of association have obtained necessary permission from the Government to establish Arts and Science Colleges and as per Section 8 of the Tamil Nadu Private Colleges (Regulation) Act, 1976. Minority Colleges need not obtain any permission. The 2nd respondent University issued proceedings/Circulars dated 16.2.2007 and 14.9.2007 respectively stipulating certain instructions/conditions which interferes with the internal management/administratin of the Colleges. Hence, the appellant association has filed the writ petitions with the above said prayers.

5. The said writ petitions were resisted by the 2nd respondent University by filing counter-affidavit contending that out of 105 affiliated Colleges, only 4 Colleges are declared as minority Colleges. As per Section 14 of the Tamil Nadu Private Colleges (Regulation) Act, 1976, each private college is bound to form a College Committee and the College Committee has got power to administer Colleges particularly appointment of staff and taking disciplinary action etc.

6. The learned single Judge dismissed both the writ petitions holding that though various conditions were imposed in the

circular/proceedings, those conditions are not affecting the rights of Private College management and the condition like forming a College Committee and appointment of staff were already found in the Act. Therefore, they cannot find exception to the University reminding the Colleges about their obligation under law and the Colleges are bound to comply with the conditions. Hence, the omnibus prayer sought for by the appellant cannot be countenanced and dismissed both the writ petitions.

7. The learned counsel appearing for the appellant submitted that the appellant is pressing the prayer only in respect of minority colleges, which have been granted such status either by competent Civil Court or by the Government and in respect of non-minority Colleges, he is not pressing the prayer sought for in the writ petitions/appeals and the writ appeals may be dismissed insofar as non-minority Colleges are concerned. The learned counsel appearing for the appellant has also made an endorsement to that effect. The said submission of the learned counsel for the appellant and the endorsement so made are recorded.

8. The learned counsel for the appellant states that appellant association is having membership of 84 minority and non-minority Colleges affiliated to Bharathiar University and about 25 Colleges are declared as minority Colleges. The said fact is disputed by the learned counsel appearing for the 2nd respondent University as well as in the counter-affidavit filed in the writ petitions stating that the 2nd respondent University has affiliated a total of 105 Colleges, out of which, there are only 4 alone are minority Colleges. The said aspect can always be verified by the 2nd respondent University regarding the minority status granted to any one of the Colleges, who are members of the appellant association.

9. Insofar as constitution of the College Committee in the minority Colleges are concerned, provisions of Tamil Nadu Private Colleges (Regulation) Act, 1976, particularly, Section 11 exempt for having College Committee. Section 11 of Tamil Nadu Private Colleges (Regulation) Act, 1976 reads thus:

"11. Constitution of College Committee. - Every private college, not being a minority college shall have a college committee which shall include the following persons employed in the private college, namely, -

- (a) the Principal;
- (b) the senior-most Selection grade Lecturer or Reader;
- (c) one other Selection grade Lecturer; and
- (d) the senior-most Superintendent:

Provided that if there is no Selection grade Lecturer in the private college, the senior-most Lecturer and one other Lecturer shall be included in the college committee:

Provided further if the senior-most Selection grade Lecturer or the senior-most Lecturer, as the case may be, or the senior-most Superintendent is not willing to be included in the advisory college committee as a member, the next senior person in the respective category who is willing to be included as a member shall be included in the college committee:

Provided also that if there is only one post in the category of Superintendent and the person holding the post is not willing to be included in the college committee as a member, the senior-most Assistant shall be included as a member in the college committee."

10. The Tamil Nadu Private Colleges (Regulation) Act, 1976 and the Rules under which the Colleges have to be established and administered states that minority Colleges need not have College Committee. The said issue was also considered by the Division Bench of this Court in the decision reported in 2011 (1) CTC 162 [The Forum of Minority Institutions and Associations v. The State of Tamil Nadu and others]. In the said decision, the very same issue was considered and it was held that the administration of the minority Colleges shall be free of Government and any regulation interfering with the right of administration would not be applicable to the minority Colleges by virtue of their fundamental right guaranteed under Article 30(1) of the Constitution of India.

11. The learned counsel appearing for the 2nd respondent University submits that insofar as minority Colleges are concerned, they need not have any College Committee and insofar as non-minority Colleges are concerned, they must have a College Committee.

12. In view of the said submissions, the order of the learned single Judge dismissing the writ petitions, cannot be treated as an appropriate order insofar as minority Colleges are concerned. Hence, the writ petitions are partly allowed insofar as the minority Colleges are concerned and the writ appeals are disposed of accordingly. It is also made clear that the status of the minority Colleges can be verified by the 2nd respondent University on the

basis of the declaration granted by the competent Civil Court or Government Orders issued for such proof. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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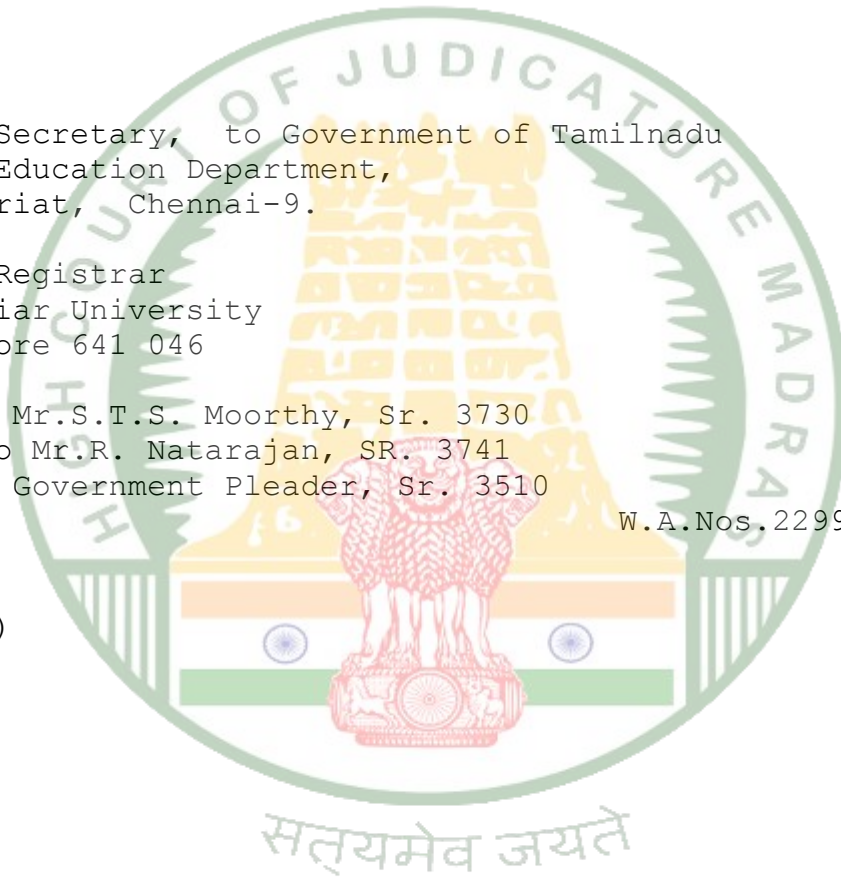
1. The Secretary, to Government of Tamilnadu
Higher Education Department,
Secretariat, Chennai-9.

2. The Registrar
Bharathiar University
Coimbatore 641 046

1 cc to Mr.S.T.S. Moorthy, Sr. 3730
2 ccs to Mr.R. Natarajan, SR. 3741
1 cc to Government Pleader, Sr. 3510

W.A.Nos.2299 & 2300 of 2012

TEJ (CO)
kk 9/2



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