

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.23930 of 2015

& M.P.Nos.1 & 2 of 2015

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

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Department of Higher Education,
Fort St. George,
Chennai-600 009.
2. The Director of Collegiate Education,
College Road,
Chennai-600 006.
3. The Regional Joint Director of
Collegiate Education,
Chennai Region,
Chennai-600 015.
4. Tamil Nadu Teachers Education University,
rep. by its Registrar,
Lady Willingdon College Campus,
Chennai-600 005. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent/Joint Director in Na.Ka.No.07615/003/12 dated 20.02.2014, quash the same and further direct the 3rd respondent/Joint Director to approve forthwith the appointment of Ms.C. Jesintha Mary with effect from 25.09.2012 as Co-ordinator, in the Extension Service Department

in petitioner's college and disburse the grant-in aid towards her salary and allowances including arrears of salary with effect from her date of appointment.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel for
Mr.P.Godson Swaminath
For RR1 to 3 : Mr.A.Zakir Hussain, Government
For R4 : Mr.V.Venkatesan

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition seeking for issuance of a certiorarified mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent/Joint Director in Na.Ka.No.07615/003/12 dated 20.02.2014, quash the same and further direct the 3rd respondent/Joint Director to approve forthwith the appointment of Ms.C. Jesintha Mary with effect from 25.09.2012 as Co-ordinator in the Extension Service Department in petitioner's college and disburse the grant-in-aid towards her salary and allowances including arrears of salary with effect from her date of appointment.

3. It is the case of the petitioner that the petitioner College is a Private College recognised by the National Council for Teacher Education and affiliated to the fourth respondent-University, which was established in the year 1923 and attained the status of an autonomous college in the year 1988.

4. It is also the case of the petitioner that the college being autonomous, is free to frame its own courses of studies and to adopt innovative methods of teaching and evaluation. There are over 300 students now studying in the aided Sections of the college. There are 14 aided teaching posts, out of which, salary has been disbursed by the third respondent only to 9 teaching posts. One of the posts which fell vacant was the post of Co-ordinator, in the Extension Services Department, arose due to the retirement of the previous incumbent Dr.Rebeca Prakash on 31.05.2012. In the resultant vacancy, one Ms.C.Jesintha Mary was appointed with effect from 25.09.2012. The appointment was with the sanctioned staff strength fixed by the second respondent-Director of Collegiate Education, vide his proceedings in No.Pa.Mu.No.54924/G1/99 dated 28.10.1999. She possesses the following qualifications.

Degree	University	Year of passing
M.Com	Madras	2002
M.Ed	Madras	2005

Degree	University	Year of passing
M.Phil	Madras	2007
NET		2008

5. It is also the case of the petitioner that after the appointment was made, the college sent a proposal dated 27.09.2012 to the fourth respondent-University seeking qualification approval. The fourth respondent-University gave qualification approval to Ms.Jesintha Mary, vide Letter No.TNTEU/R/Quali.Approval/CC10220/2012/2040 dated 18.10.2012.

6. It is further case of the petitioner that the college thereafter sent a proposal dated 21.11.2012 to the third respondent/Joint Director seeking for approval of appointment of Ms.Jesintha Mary for the purpose of disbursement of grant-in-aid towards her salary. The third respondent-Joint Director, vide impugned proceedings in No.Na.Ka.No.07615/003/12, dated 20.02.2014 had refused approval of appointment stating that the vacant post shall be filled up only after obtaining permission from the second respondent/Director. Hence, questioning the same, the petitioner has preferred the present writ petition.

7. When the matter is taken up for hearing today, the learned counsel for petitioner has submitted that the post of Co-ordinator in the Extension Services Department is a sanctioned strength post. Private Colleges will not get prior permission before filling up of the vacancies in the sanctioned posts.

8. The petitioner has also produced a copy of the order of the learned Single Judge passed in Writ Petition No.16897 of 2015 dated 15.06.2015, wherein, it was held as follows:

"It is a well settled law by Catena of decisions that whenever sanctioned posts are there and any vacancy arises due to retirement, death or resignation of the persons holding those posts, the same should be filled up by the concerned aided Institution without loss of time, so that the education of the students would not be affected and the education of the students is a paramount consideration in these matters. It is a different matter if a Teacher is appointed beyond the sanctioned strength. In this case, it is not in dispute that the petitioner was appointed by the fourth respondent College in the sanctioned post. Furthermore, the fourth respondent is a Minority Institution governed by Article 30 of the Constitution of India.

9. Therefore, in the instant case, the appointment was only with the sanctioned staff strength post. Therefore, there is no need for the prior approval from the second respondent/Director.

10. In the result, the impugned order is liable to be set aside. Accordingly, the impugned order is set aside. The writ petition is allowed as prayed for, with a direction to the third respondent to give approval for appointment of Ms.Jesintha Mary, in the post of Coordinator with effect from 25.09.2012 in the Extension Service Department of the petitioner's College. A further direction is also issued to the third respondent to disburse the grant-in-aid towards her salary and allowances including arrears of salary with effect from her date of appointment. The above directions shall be complied with within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1. The Secretary,
Department of Higher Education,
Fort St. George,
Chennai-600 009.
2. The Director of Collegiate Education,
College Road,
Chennai-600 006.
3. The Regional Joint Director of
Collegiate Education,
Chennai Region,
Chennai-600 015.

+1 cc to m/s.p.Godson swaminath Advocate SR.NO. 55457

W.P.No.23930 of 2015

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RD 22/10/2016

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