

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.28164 of 2016
and
WMP Nos.24297 to 24299 of 2016

Bharathiyar University SC/ST
Teachers and Staff Welfare Association,
Regd No.224/09,
Bharathiar University Post,
Coimbatore, Tamil Nadu,
(Affiliated to Coimbatore District
SC/ST, BC & Minorities Employees
Federation)
Rep. by its President,
Azha. Periyasamy .. Petitioner

Versus

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Adi-Dravida Welfare Department,
Fort St. George,
Secretariat, Chennai-9.
2. The Government of Tamil Nadu,
Rep. by its Secretary,
Higher Education Department,
Fort St. George,
Secretariat, Chennai-9.
3. The Vice Chancellor,
Bharathiar University,
Coimbatore-641 046.
4. The Registrar,
Bharathiar University,
Coimbatore-641 046.
5. The Chairman,
Selection Committee,
Bharathiar University,
Coimbatore-641 046. .. Respondents

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus challenging the Advt.No.E7/ 2016/15072-1 to 22 dated 14.07.2016 issued by the fourth respondent and quash the same as illegal, improper,

arbitrary, unreasonable and against the principles of natural justice and thereby direct the respondents to issue special notification for filling up the backlog vacancies for the post of Teaching and Non Teaching in the third respondent university in respect of SC/ST and MBC categories as per the roster and fill up the said posts immediately without any further delay.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents: Mr.A.Kumar (R1 and R2)
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of Writ of Certiorarified Mandamus challenging the Advt.No.E7/2016/15072-1 to 22 dated 14.07.2016 issued by the fourth respondent and quash the same as illegal, improper, arbitrary, unreasonable and against the principles of natural justice and consequently direct the respondents to issue special notification for filling up the backlog vacancies for the post of Teaching and Non Teaching posts in the third respondent university in respect of SC/ST and MBC categories as per the roster and fill up the said posts immediately without any further delay.

2. Heard the learned counsel for the petitioner as well as learned Special Government Pleader appearing for the respondents.

3. The learned Special Government Pleader appearing for the respondents would contend that the writ petition filed by an association is not maintainable. The association cannot have any locus standi to file the present writ petition to expouse the cause of it's members especially to fill up the existing vacancies in a particular manner. Further, the relief sought for by the petitioner association in this writ petition cannot be granted as laid down by the Division Bench of this Court in the decisions reported in (Formation of Indian Network Marketing Association, rep. By its President vs. M/s. Apple FMCG Marketing Pvt Ltd., rep. By its Chief Executive Officer and others) (2005) Writ Law Reporter 321 and (Tamilaga Asiriyar Kootani, rep. By the General Secretary V. Annamalai vs. The Government of Tamil Nadu, rep. By its Secretary to Government, School Education Department, Chennai - 9 and others) 2005 Writ Law Reporter 389.

4. At the outset, a preliminary objection has been raised by the learned Special Government Pleader asserting that the writ petition is not maintainable in view of the fact that the petitioner association has come forward with this writ petition with an omnibus prayer on behalf of it's members. The said argument of the learned Special Government Pleader is well

founded. As pointed out by the learned Special Government Pleader, the maintainability of the writ petition filed by an association came up for consideration before the Division Bench of this Court reported in (Tamilaga Asiriyar Kootani, rep. By the General Secretary V. Annamalai vs. The Government of Tamil Nadu, rep. By its Secretary to Government, School Education Department, Chennai - 9 and others) 2005 Writ Law Reporter 389 wherein in para No.15, it was held as follows:-

"15. In our opinion, if any educational institution or Head Master or Teacher is aggrieved by the impugned G.O. Ms. No.13 dated 09.02.2005, they can file a writ petition in this Court, challenging the same, but the appellant-association had no locus standi in the matter. It cannot be said that the educational institutions or Head Masters are so poor that they are unable to approach this Court. If any particular educational institution or Headmaster has a grievance against the impugned G.O. Ms. NO.13 dated 09.02.2005, it is for such a person to file a writ petition or writ appeal, and not for any association. The writ appeal is dismissed on the ground of lack of locus standi. The writ petition is dismissed for the same reason."

5. In the light of the aforesaid decision of this Court, the petitioner association has no locus stand to file the present writ petition. Accordingly, the writ petition is dismissed. However, it is made clear that if any individual member has any grievance with respect to filling up of the vacant post by following the communal roaster, it is always open to such member to seek relief in a manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Adi-Dravida Welfare Department,
Fort St. George,
Secretariat, Chennai-9.

2. The Government of Tamil Nadu,
Rep. by its Secretary,
Higher Education Department,
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Coimbatore-641 046.

5. The Chairman,
Selection Committee,
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Coimbatore-641 046.

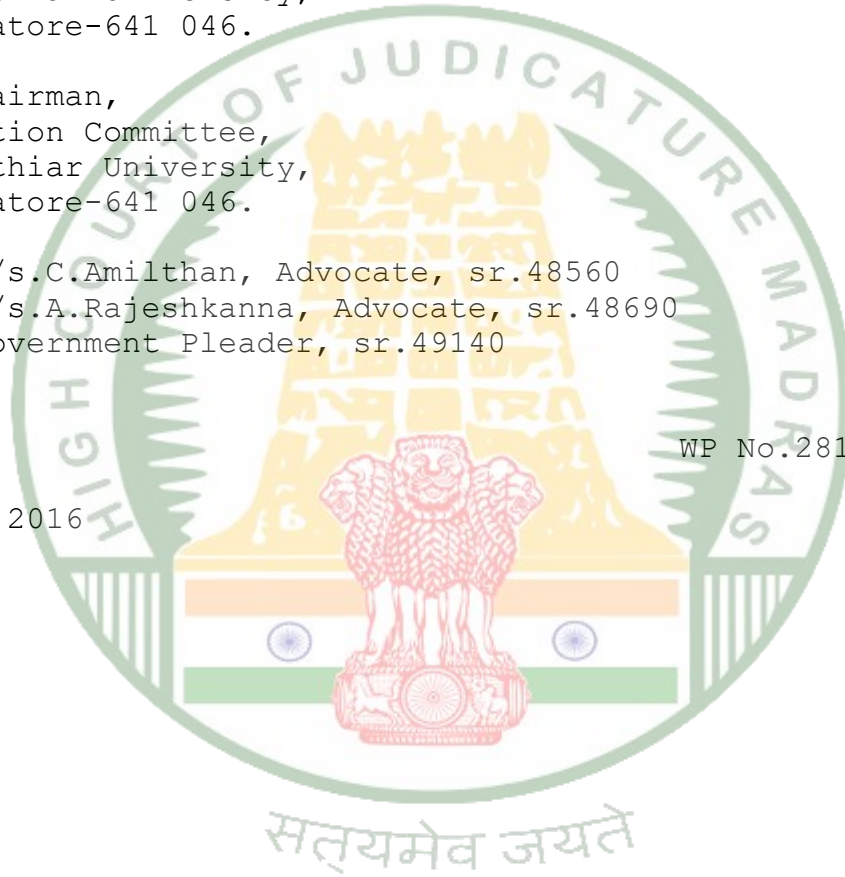
1 cc to M/s.C.Amilthan, Advocate, sr.48560

1 cc to M/s.A.Rajeshkanna, Advocate, sr.48690

1 cc to Government Pleader, sr.49140

ctk co
kra 29.09.2016

WP No.28164 of 2016



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