

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.03.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.9402 of 2016

and

WMP.No.8387 of 2016

A.V.C.College (Autonomous)
Rep.by its Secretary (Incharge)
Mannampandal
Mayiladuthurai
Nagapattinam District ... Petitioner

Vs

1. The Chief Election Commissioner
The Election Commission of India
New Delhi.
2. The Chief Electoral Officer
State of Tamil Nadu
Fort. St.George, Chennai - 600 009
3. The Registrar,
Bharatidasan University
Palkalai Perur, Tiruchirappalli - 620 024... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the third respondent to permit the petitioner to complete the selection process of the vacancies to the post of Assistant Professors in the petitioner Institution in accordance with the proceedings of the third respondent in Letter No.32340/D6/2015 dated 02.03.2016 as per the interview scheduled from 12.03.2016.

For petitioner : Mr.R.Shivakumar
for M/s. K.M.Vijayan Associates

For R1 and R2 : Mr.Niranjan Rajagopalan
for M/s. G.R.Associates

For R3 : Mr. V.Govardhan
for M/s. Row and Reddy

O R D E R

The Secretary incharge of A.V.C.College (Autonomous) has come to this Court seeking a writ of mandamus directing the Registrar, Bharathidasan University, Tiruchirappalli, the third respondent herein to permit them to complete the selection process of the vacancies to the post of Assistant Professors in their Institution in accordance with the proceedings of the third respondent in Letter No.32340/D6/2015 dated 02.03.2016 as per the interview scheduled to be held from 12.03.2016.

2. Heard Mr.R.Shivakumar, learned counsel appearing for the petitioner, Mr.Niranjana Rajagopalan, learned standing counsel takes notice on behalf of respondents 1 and 2 and Mr.V.Govardhan, learned counsel takes notice on behalf of third respondent and with their consent, the writ petition is taken up for disposal at the admission stage.

3. The petitioner college is aided autonomous college maintained by the A.V.Charities Trust and is recognised under the Tamil Nadu Private Colleges Regulations Act. The petitioner Institution is also affiliated by the third respondent Bharathidasan University. Since vacancy arises in various faculty, the petitioner institution sought permission to fill up the same in Na.Ka.No.12229/G3/2014-2015 dated 22.01.2016 and the same was placed before the A.V.C.College Committee. Consequently, process of selection as per the University Grants Commission Regulations was initiated. Thereafter, the petitioner Institution requested the third respondent to nominate members for the formation of staff Selection Committee by letter dated 27.01.2016 to fill up the 12 posts of Assistant Professor and one vacancy of backlog of the year 2013. In the meanwhile, the petitioner Institution notified the vacancies for the permanent post of 13 Assistant Professor for various subjects and the same was also published in Tamil and English newspaper on 25.01.2016. Based on the advertisement published in the newspaper, the petitioner Institution received 188 applications, out of which, the Institution found that 163 candidates have got requisite qualification.

4. While so, the third respondent/Bharathidasan University appointed various expert members for the formation of Staff Selection Committee by issuing order dated 02.3.2016 in letter No.32340/D6/2015. Pursuant to the same, the petitioner Institution dispatched interview call letters to the eligible candidates fixing the date of interview as 12.3.2016 and 14.03.2016. Since the petitioner apprehends that the

appointments which are to be made will attract the Model Code of Conduct, which came into force from 04.3.2016, they have sought for clarification from the second and third respondent as to whether the process of selection initiated by them will attract the mode of Code of Conduct. Since there was no response, the petitioner Institution has come to this Court.

5. The only grievance of the petitioner Institution is that they being the aided Institution and as they have already initiated the process of selection by issuing call letters to the candidates indicating the date of interview to the post of Assistant Professor, the Model Code of Conduct will not attract them. Therefore, the petitioner seeks for a direction to the respondents to permit them to proceed with the selection process, however, withholding the finalisation till the declaration of the results of the State Legislative Assembly Election.

6. Learned Standing counsel for the respondents 1 and 2 submitted that since the petitioner Institution is receiving grant in aid, the Model Code of conduct, which came into force on 04.3.2016, will also apply to them and if any appointment is made it will influence the mind of the voters.

7. In reply, the learned counsel for the petitioner submitted that in a similar circumstances, this Court, in the case of SIVET College, Gowrivakkam, Chennai, has given permission to conduct interview. Therefore, he prays that the same benefits may be extended to the petitioner also as they have issued notification for selection process much before the Model Code of Conduct came into force.

8. I agree with the contentions raised by the learned counsel for the petitioner. However, since the petitioner's representation is pending consideration by the respondents and taking into consideration the fact that the dates fixed for interview have already been expired, this Court is of the view that ends of justice would be met by directing the petitioner to make a fresh representation before the respondents 1 and 2 mentioning the date of interview, within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondents 1 and 2 are directed to dispose of the same on merits, within a period of one week thereafter.

The writ petition is disposed of with the above direction.
No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chief Election Commissioner
The Election Commission of India
New Delhi.
2. The Chief Electoral Officer
State of Tamil Nadu
Fort. St.George, Chennai - 600 009
3. The Registrar,
Bharatidasan University
Palkalai Perur, Tiruchirappalli - 620 024.

+1 cc to M/s.G.R.Associates advocates sr.16891

+1 cc to M/s.K.M.Vijayan Associates sr.16849

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