



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.20347 of 2014

and

M.P (MD) No.1 of 2014

Chrissie Gracelyn David

.. Petitioner

vs.

1.The Director of Collegiate Education,
College, Road, Chennai - 600 006.2.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.3.The Manonmaniam Sundaranar University,
Rep. By its Registrar, Abhisekapaati,
Tirunelveli - 627 012.4.The Correspondent/Secretary,
Women's Christian College,
Nagercoil - 629 001,
Kanyakumari District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the 3rd respondent University to grant qualification-approval forthwith to the petitioner.

For Petitioner

:Mr.T.CibiChakraborty

For R-1 & R-2

:Mr.R.Anandaraj,
Government Advocate

For-3

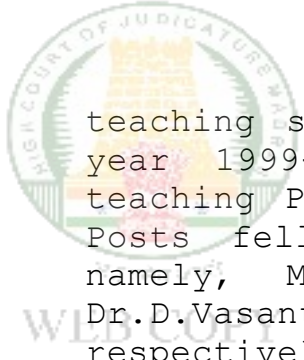
:Mr.M.M.Athief

For R-4

:No Appearance

ORDER

The petitioner Mrs.Chrissie Gracelyn David, has possessed B.A., (English), M.A., (English), B.Ed., (English)., M.Phil., (English) and Ph.D., (English). It is stated that the fourth respondent college Women's Christian College in Nagercoil is a recognised Minority Institution, under Article 30 of the Constitution of India. It is also affiliated to the third respondent Manonmaniam Sundaranar University. Besides the college is aided by the Government and 1520 students are studying in the aided sections of the college, 58 teaching staff and 21 non-



teaching staff are working in the aided sections. During the year 1999-2000, the first respondent Director had fixed 11 teaching Posts for the Department of English, in which, three Posts fell vacant due to the retirement of three incumbents namely, Mrs.Indira Alexandar, Mrs.Jeyarus Mysia Daniel and Dr.D.Vasanthavathy on 31.05.2000, 31.03.2004 and 31.05.2007 respectively. Only in the sanctioned Post, which fell vacant due to the retirement of Dr.D.Vasanthavathy on 31.05.2007, the petitioner was appointed and she has also joined duty with effect from 13.06.2007. Since then she has been serving as Lecturer in the college in an un-aided Post from 07.07.2005 to 13.06.2007. As she was working from 07.07.2005 to 13.06.2007 the college sought qualification approval from the first respondent to fill up the aforesaid vacancy that arose in the English Department along with other vacancies in other Departments (totally 13 Posts). The Director gave permission to fill up one Post in English Department and six Posts in other Departments vide proceedings in Na.Ka.No.26627/G3/2007, dated 26.07.2007 as follows:

Serial No	POST	No. of Posts
1	English	1
2	History	2
3	Chemistry	2
4	Zoology	1
5	Botany	1
	Total	7

Subsequently, the first respondent Director of Collegiate Education also gave his approval for appointment of one person viz., one Mrs.J.Subitha Persis w.e.f. 25.08.2007, however, did not give approval to the petitioner's appointment. Therefore, the fourth respondent College sent a proposal to the first respondent on 03.08.2007. In the meanwhile two more vacancies arose in the English Department due to the retirement of two other incumbents namely Mrs.Suseela James and Mrs.Sumathy Christinal both on 31.05.2011, for which, the college has also submitted another proposal to the first respondent on 21.10.2013 through the second respondent Joint Director in respect of all the left out Posts along with the petitioner's Posts. In this regard, it is the claim of the petitioner that the second respondent has forwarded the same to the first respondent Director on 13.12.2013. But there was no response. After various communications from the college and the first respondent, the third respondent University again demanded the Director's permission for filling up the vacant Posts vide proceedings, dated 29.09.2014. Immediately, the college sent a reminder to the University on 09.10.2014 for the grant of qualification approval making it clear that the college being a Minority Educational Institution, need not obtain prior



permission to fill up the vacant Posts, which is a sanctioned one. Therefore, it was indicated that the University is bound to give qualification approval, without which, the Director's approval for the disbursement of grant-in aid is impossible. But, there was no response. Therefore, the petitioner was forced to come to this Court.

2. Placing reliance on the judgment of the Honourable Division Bench of this Court in **P.Ravichandran v. State of Tamil Nadu and others** reported in (2013) 7 MLJ 641, it is claimed that this Court has clearly held that in respect of aided Minority Educational Institutions, there is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and the Tamil Nadu Private Colleges (Regulation) Rules, 1976 under Rule 11(1) of the Rules. Therefore, when the issue is once and for all settled and the issue is no longer res integra, the third respondent University is bound to grant qualification approval for the appointment of the petitioner as Lecturer in English/Assistant Professor in the fourth respondent college w.e.f. 13.06.2007.

3. Heard the submissions made on both sides and perused the materials available on record.

4. The only issue raised in the present Writ Petition is, whether prior permission is to be obtained by the management of private aided colleges to fill up the vacancies of teaching and non-teaching staff arising in the sanctioned Posts during the middle of the academic year in the absence of any prohibitory order issued by the Government for filling up such vacancies. The answer is, "No". It is pertinent to extract the relevant portion of the judgment of the Honourable Division Bench of this Court in P.Ravichandran's case (mentioned supra).

(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.

(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated.



Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.

(4) The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4) (ii).

(5) If there is no rival candidate for any post, the appointment is bound to be approved for the purpose of payment of pay and allowances, by the Regional Joint Director of Collegiate Education.

The writ appeal is disposed of with the above directions. No Costs.

5. A mere reading of the above ratio laid down by this Court candidly shows that prior permission to fill up any vacant Post in an aided college, which is already a sanctioned Post, from the Director under Rule 11(1) of the Tamil Nadu Private Colleges Regulation Rules, is not required.

6. Therefore, the third respondent University is directed to consider the representation made by the fourth respondent college, dated 08.09.2014 for grant of qualification approval, and pass orders on the same, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

- 1.The Director of Collegiate Education,
College, Road, Chennai - 600 006.
- 2.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.
- 3.The Manonmaniam Sundaranar University,
Rep. By its Registrar, Abhisekapaati,
Tirunelveli - 627 012.



4.The Correspondent/Secretary,
Women's Christian College,
Nagercoil - 629 001,mKanyakumari District.

+1cc to M/s.Ajmal Associates, Advocate SR.No.31283

+1cc to Mr.Cibi Chakraborty, Advocate SR.No.31269

+1cc to special Government Pleader SR.No.31238

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