



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.A(MD) No.1540 of 2016

Mr. Kanagaraju

... Appellant/Petitioner

Vs.

1. The Secretary to Government,
Hindu Religious and Charitable Endowment &
Tamil Culture Development,
Government of Tamil Nadu,
Chennai.
2. The Commissioner/Principal Secretary,
Hindu Religious and Charitable Endowment,
Nungampakkam High Road,
Chennai.
3. The Joint Commissioner/Executive Officer Cum Secretary,
Arulmigu Dhandayuthapani Swamy Thirukoil &
Arulmigu Palaniandavar College of Arts & Culture &
Arulmigu Palaniandavar Arts College for Women,
Palani,
Dindigul District.
4. The University Grants Commission,
Behadursha Barar Marg,
New Delhi - 110 002.
5. The Secretary to Government,
Higher Education (H1) Department,
Secretariat,
Chennai.
(R4-R5 are suo-motu impleaded
vide order dated 15.02.2010 in
W.P.(MD) No.11848 of 2008)

... Respondents/Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 01.04.2016 made in W.P.(MD) No.11848 of 2008.

Prayer in WP(MD). 11848/ 2008 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, calling for the records relating to proceedings in Pro.R.C.No.21577/2008/03 on the file of 2nd Respondent dated 29.11.2008 and quash the same and further directing the 2nd Respondent to constitute a selection committee



complying Government Order (Standing) No.163 Schedule Caste and Schedule Tribes Welfare (Pa.Me.Sa) Department dated 29.9.1997.

For Appellant : Mr.T.Lajapathi Roy
For Respondents 1 & 2 : Mr.A.K.Baskara Pandian,
Special Government Pleader
For 3rd Respondent : Mr.R.Govindarajan
For 4th Respondent : Mr.Alaguram Jothi

J U D G M E N T

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

By consent, this Writ Appeal is taken up for final disposal.

2.The appellant/writ petitioner claims that he belongs to an agricultural family and by his hard work and efforts, he successfully completed M.A. (English Literature) and M.Phil. in the same subject and he being social spirited person and a hard working individual have affinity towards social and economical stability of the persons who are all belonging to downtrodden community. The appellant would further submit that he belongs to Schedule Caste Community and on account of his educational qualification, he was appointed as Assistant Professor for English in the 4th respondent College and after 26 years of experience in the said College, now he is serving as Head of the Department of English. It is the specific case of the petitioner that the 4th respondent College was established in the year 1963 under the Management of Arulmigu Dhandayuthapani Swamy Thirukovil Devasthanam and the Government is giving 80% aid and the College is providing 20% for all expenses and as such all the Rules and Regulations and Administrative Instructions as applicable to the Government Colleges are also applicable to the 4th respondent College.

3.The grievance expressed by the petitioner is that the Scheduled Caste and Schedule Tribes Welfare Department in G.O. (Standing) No.163 Schedule Caste and Schedule Tribes Welfare (Pa.Me.Sa) Department dated 29.09.1997, put an mandate that while constituting Selection Committee, a person belonging to the Scheduled Caste or Schedule Tribe should be one of its member and contrary to that G.O., for the post of Lecturers a Selection Committee has been constituted in the 4th Respondent College and therefore, the petitioner came forward to file the Writ Petition, praying for the issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings dated 29.11.2008, with a direction to the second respondent to constitute a Selection Committee in

terms of the above cited Government Order.

4. In the writ petition notice was ordered to the respondents. The second respondent has filed a counter, in which he took a stand that as per the recommendation of the University Grants Commission and as per the guidelines issued in G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999, the Selection Committee has been constituted and the said G.O.Ms.No.163, Scheduled Caste and Scheduled Tribes Welfare Department dated 29.09.1997 has no application to the said College. The 3rd respondent has also filed a counter, in which he took the very same stand. A Single Bench of this Court, after taking into consideration the rival submissions and materials placed, has found that the 3rd respondent is an aided institution and as G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999 is squarely applicable in respect of Constitution of Selection Committee, wherein it has not been specifically stated that one of the members should belong to Scheduled Caste and further found that the writ petitioner has also participated in the Selection Committee as one of the members and as such it is not open to the petitioner to take a contra stand and therefore, dismissed the Writ Petition vide order dated 01.04.2016 and aggrieved by the same, the Writ Petitioner has come forward with the present appeal.

5. Mr. T. Lajapathi Roy, the learned counsel for the petitioner would submit that G.O.Ms.No.163, Scheduled Caste and Scheduled Tribes Welfare Department dated 29.09.1997, has been issued to give adequate representation to the Scheduled Caste Community in the selection process and the 4th respondent is bound to follow the said G.O. However, the 4th respondent is taking shelter under G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999, and as such appropriate direction may be given to the respondents to include one member belonging to Scheduled Caste Community as a member of the Selection Committee at least in future recruitments and selections and prays for appropriate orders.

6. Per contra, Mr. A. K. Baskaran Pandian, the learned Special Government Pleader appearing for the respondents 1 and 2 and Mr. R. Govindarajan, learned counsel appearing for the 3rd respondent would contend that in so far as the said College is concerned they are bound to follow G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999 as well as University Grants Commission regulations and the said G.O. also takes note of the standards prescribed by the University Grants Commission and as such it cannot be faulted with. Since the administrative Department has issued G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999, they are following the said G.O. and as such the

7. This Court paid it's best attention to the rival



submissions and also perused the materials placed before it.

8.A perusal of G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999, would disclose that the recommendations of the University Grants Commission have been taken note of and various guidelines have been fixed with regard to fixation of pay scales, recruitment and qualification and Career Advancement Scheme and other service matters. Admittedly, the said G.O. does not refer to G.O.Ms.163, Scheduled Caste and Scheduled Tribes Welfare Department, dated 29.09.1997. The counter affidavit of the 4th respondent filed in the Writ Petition would also read that in G.O.Ms.111, Higher Education (H1) Department, dated 24.03.1999 guidelines have been given as to the mode of selection and appointment to the post of Lecturer and the said G.O. is in consonance with the guidelines issued by the University Grants Commission. It is also very pertinent to point out at this juncture that in respect of selection and appointment, the communal reservation policy has been followed and as such the petitioner cannot have any grievance as to the non-following of G.O.Ms.163, Scheduled Caste and Scheduled Tribes Welfare Department, dated 29.09.1997.

9.At this juncture, the learned counsel for the appellant/writ petitioner would submit that he may be permitted to submit a representation for following G.O.Ms.163, Scheduled Caste and Scheduled Tribes Welfare Department, dated 29.09.1997 and the concerned respondent may be directed to dispose of the same in accordance with law.

10.On the above submissions, this Court heard the submissions of the learned counsel for the respondents.

11.This Court on an independent application of mind is of the view that there is no error in the reasons assigned for dismissal of the writ petition and finds no merit in the writ appeal. Therefore, the Writ Appeal is dismissed. However, there shall be no order as to the costs.

12.If the petitioner is so advised, he is always open to submit a representation to the 1st respondent to implement G.O.Ms.163, Scheduled Caste and Scheduled Tribes Welfare Department, dated 29.09.1997 and as and when such a representation is received by the first respondent, it shall be considered in accordance with law and appropriate orders be passed as expeditiously as possible.

sd/-

Assistant Registrar(AS)

/True copy/



To

- 1.The Secretary to Government,
Hindu Religious and Charitable Endowment &
Tamil Culture Development,
Government of Tamil Nadu,
Chennai.
- 2.The Commissioner/Principal Secretary,
Hindu Religious and Charitable Endowment
Nungampakkam High Road,
Chennai.
- 3.The Joint Commissioner/Executive Officer Cum Secretary,
Arulmigu Dhandayuthapani Swamy Thirukoil &
Arulmigu Palaniandavar College of Arts & Culture &
Arulmigu Palaniandavar Arts College for Women,
Palani, Dindigul District.
- 4.The University Grants Commission,
Behadursha Barar Marg, New Delhi - 110 002.
- 5.The Secretary to Government,
Higher Education (H1) Department,
Secretariat, Chennai.

+1 cc to M/s.T.Lajapathi Roy, Advocate in SR.No.74689

sj

CSL/SS-2/21.12.2016 :5P/7C

W.A(MD)No.1540 of 2016
30.11.2016