



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.14543 of 2016

and

W.M.P (MD) Nos.10807 and 10808 of 2016

The Secretary,
St. Xavier's College (Autonomous),
Palayamkottai - 627 002,
Tirunelveli District.

.. 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,
Abhisekapatti,
Tirunelveli - 627 012.
Rep. By its Registrar.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the third respondent University in Ref.No.MSU/R/CD/SXC/QA-Rtn/AP/2016, dated 18.02.2016, quash the same and further direct the third respondent, Manonmaniam Sundarar University, to grant qualification approval forthwith to the appointment of four Assistant Professors (Name List annexed) in the Petitioner's college w.e.f the dates of their respective appointments.

For Petitioner
For R-1 & R-2

For R-3

:Mr.T.Cibi Chakraborty
:Mr.T.R.Janarthanam,
Additional Government Pleader
:Mr.Mhaboob Athiff for
M/s.Ajmal Associates

**ORDER**

The Petitioner/Secretary of St. Xavier's College(Autonomous), Palayamkottai, Tirunelveli District, has filed this Writ Petition, challenging the order passed by the third respondent University in Ref.No.MSU/R/CD/SXC/QA-Rtn/AP/2016, dated 18.02.2016, to quash the same and to further direct the third respondent, Manonmaniam Sundarar University, to grant qualification approval forthwith to the appointment of four Assistant Professors in their college w.e.f, the date of their respective appointments.

2. When the matter came up hearing today, the learned counsel for the petitioner submits that the issue raised in this Writ Petition is squarely covered by the order passed by this Court in W.P(MD)No.20347 of 2014, dated 17.06.2016.

3. Relevant portion of the order passed by this Court in W.P(MD)No.20347 of 2014, dated 17.06.2016, is extracted hereunder:

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.

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(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.

4. In view of the above, the Writ Petition is allowed and the impugned proceedings issued by the third respondent, dated 18.02.2016, is hereby set aside. Further, the third respondent



University is directed to consider the proposal sent by the petitioner, dated 15.02.2016 for grant of qualification approval, afresh 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. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (CS-II)

/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 Registrar,
Manonmaniam Sundaranar University,
Abhisekapaati,
Tirunelveli - 627 012.

+1 cc to MR.T.CIBI CHAKRABORTHY, SR.No.43541
+1 cc to MR.AJMAL ASSOCIATES, Advocate Sr.no.43714
+1 cc to Government Pleader SR.No.43659

W.P. (MD) No.14543 of 2016
10.08.2016

SMA/PV/23/08/2016 :4P/7C