



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.14544 of 2016

and

W.M.P (MD) Nos.10809 and 10810 of 2016

WEB COPY

G.M.Sundersingh,
Assistant Professor(History)
Nesamany Memorial Christian College,
Marthandam - 629 165,
Kanyakumari District.

.. Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of Higher Education,
Fort St. George, Chennai - 600 009.

2.The Director of Collegiate Education,
College Road, Chennai - 600 006.

3.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.

4.Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli - 627 012.

5.Nesamany Memorial Christian College,
Marthandam,
Kanyakumari District - 629 165,
Rep. By its Secretary.

.. 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 fourth respondent university in Ref.No.MSU/R/CD/NMCC/QA/A.Pd.cla./2016/2 dated 20.06.2016, quash the same and further direct the fourth respondent Manonmaniam Sundaranar University, to grant qualification approval forthwith to the petitioner's appointment as Assistant Professor in History in the 5th respondent's college w.e.f., 03.07.2014.

For Petitioner
For R-1 to R-3

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

**ORDER**

The Petitioner Mr.G.M.Sundersingh, who is working as Assistant Professor(History), Nesamany Memorial Christian College, Marthandam, Kanniyakumari District, has filed this Writ Petition, challenging the order passed by the fourth respondent university in Ref.No.MSU/R/CD/NMCC/QA/A.Pd.cla./2016/2 dated 20.06.2016 to quash the same and to direct the fourth respondent University, to grant qualification approval to the petitioner's appointment as Assistant Professor in History in the 5th respondent's college w.e.f., 03.07.2014.

2. When the matter came up for 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.

(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.

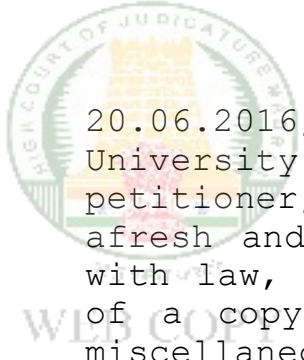
(4) The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4)(ii).

(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.



20.06.2016, is hereby set aside. Further, the 4th respondent University is directed to consider the representation of the petitioner, dated 06.06.2016 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 State of Tamil Nadu,
Rep. By its Secretary,
Department of Higher Education,
Fort St. George, Chennai - 600 009.
- 2.The Director of Collegiate Education,
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- 3.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.
- 4.Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli - 627 012.

+1 cc to The Special Government Pleader in SR.No. 43660
+1 cc to M/S.Ajmal Associates, Advocate in SR.No. 43713
+1 cc to M/S. T.Cibichakravathy, Advocate in SR.No. 43542

pm

CSL/PV/12.09.2016: 4p/8c

W.P. (MD) No.14544 of 2016

10.08.2016