



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)Nos.14732 and 14733 of 2016  
and

W.M.P(MD)Nos.10892 to 10895 of 2016

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

... Petitioner in W.P.14732/16

The Secretary,  
St.Mary's College (Autonomous),  
Thoothukudi District-628 001.

... Petitioner in W.P.14733/16

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,  
Abishekapatti, Tirunelveli-627 012.

Rep by its Registrar.

... Respondents in both Wps

W.P(MD)No.14732/16 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the 3<sup>rd</sup> respondent University in Ref.No.MSU/R/CD/SXC/QA-NG/AP/2016, dated 28.03.2016, quash the same and further direct the 3<sup>rd</sup> respondent, Manonmaniam Sundaranar University, to grant qualification approval forthwith to the appointment of S.Alphonse as Assistant Professor in History in the petitioner's college w.e.f. 01.09.2015.

W.P(MD)No.14733/16 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the 3<sup>rd</sup> respondent University in Ref.No.MSU/R/CD/QA/SMC/AP,DPE/2016 dated 18.01.2016, quash the same and further direct the 3<sup>rd</sup> respondent, Manonmaniam Sundaranar University, to grant qualification approval forthwith to the appointment of 4 Assistant Professors (Name List annexed) in the petitioner's college w.e.f. the dates of their respective appointments.



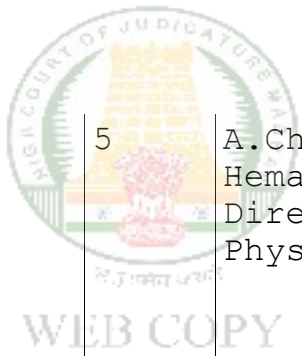
Appearance in both Wps:-

For Petitioner : Mr.T.Cibi Chakraborty  
For R1 & R2 : Mr.T.R.Janarthanam,  
Additional Government Pleader  
For R3 : Mr.E.Marees Kumar for M/s.Ajmal Associates

**COMMON ORDER**

The Secretary, St.Xavier's College(Autonomous), Palayamkottai, Tirunelveli District, and the Secretary, St.Mary's College (Autonomous), Thoothukudi District, have come to this Court challenging the impugned proceedings issued by the 3<sup>rd</sup> respondent/Registrar, Manonmaniam Sundaranar University, Tirunelveli, dated 28.03.2016 and 18.01.2016 respectively, returning the proposals of the petitioner's college seeking approval of the qualification of the following Assistant Professors.

| Sl. No. | Name & Post                                                | Qualification          | Date of Appointment | Vacancy Details                                                                       |
|---------|------------------------------------------------------------|------------------------|---------------------|---------------------------------------------------------------------------------------|
| 1       | Rev.Dr.M.Alphonse SJ.<br>Assistant Professor in History    | M.A., M.Phil and Ph.D  | 01.09.2015          | Retirement vacancy of the then incumbent                                              |
| 2       | Ms.K.Karthika,<br>Assistant Professor in English           | M.A., M.Phil., SET     | 17.06.2015          | Selvi P.Martha Rubin, Associate Professor in English retired on 31.05.2010.           |
| 3       | Dr.Tmt.F.Mary Priya,<br>Assistant Professor in English     | M.A., M.Phil and Ph.D  | 17.06.2015          | A.Helen Nancy, Associate Professor of English retired on 31.05.2011.                  |
| 4       | Dr.A.Praveen Sulthana,<br>Assistant Professor in Chemistry | M.Sc., M.Phil., Ph.D., | 17.06.2015          | I.Lettitia Mary Abteen Seeli, Associate Professor of Chemistry retired on 31.05.2011. |



|   |                                                                    |                           |            |                                                                                      |
|---|--------------------------------------------------------------------|---------------------------|------------|--------------------------------------------------------------------------------------|
| 5 | A.Christy Annanthi Hemalatha,<br>Director of<br>Physical Education | M.P.Ed.,<br>M.Phil., SLET | 17.06.2015 | M.Mary Josephal,<br>Director of<br>Physical<br>Education<br>retired on<br>31.05.2011 |
|---|--------------------------------------------------------------------|---------------------------|------------|--------------------------------------------------------------------------------------|

2.The impugned proceedings returning the proposals of the petitioner were made for the following reasons:-

'1.Non submission of current DCE (Director of Collegiate Education) Proceedings.

2.Governing Board minutes duly signed by the members present.'

3.Assailing the correctness of the impugned orders, learned counsel for the petitioner would submit that the petitioner's college being a minority educational institution, without seeking prior approval from the respondents, have appointed the abovesaid incumbents, further, the abovesaid appointments were made against sanctioned posts as tabulated above. In support of the contention that no prior permission is required to be obtained by the petitioner's college, learned counsel for the petitioner relied on a decision of this Court in W.P(MD)No.20347 of 2014, dated 17.06.2016, wherein, following a Division Bench judgment of this Court in **P.Ravichandran vs. State of Tamil Nadu and others, reported in (2013) 7 MLJ 641**, this Court has passed the following order:-

'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.'

4. Since the issue raised in these writ petitions having been covered by a decision in P.Ravichandran's case, learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel for the 3<sup>rd</sup> respondent/Manonmaniam Sundaranar University, have submitted that these writ petitions may also be disposed of following the said order.

5. In view of the above submissions and the decision in P.Ravichandran's case followed by me in W.P(MD)No.20347 of 2014, dated 17.06.2016, these writ petitions are allowed, setting aside the impugned orders. The 3<sup>rd</sup> respondent University is directed to consider the proposals of the petitioners' college seeking approval of the qualification of the abovesaid Assistant Professors, and pass appropriate orders 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. W.M.P(MD)Nos.10892 to 10895 of 2016 are closed.

Sd/-

Assistant Registrar (Writ)



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

+2 cc to Mr.T.CIBI CHAKRABORTHY ,Advocate, Sr.No: 44050,44051

+2 cc to M/S AJMAL ASSOCIATES, Sr.No: 44401/44400

+1cc to M/S Special Government Pleader, Sr No. 44117

jam/24.08.16/AAL-MPA/ /5P-9C

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