



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.10.2016
CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

WEB COPY

W.P(MD) No.18858 of 2016 and
WMP(MD)No.13651 of 2016

The Secretary
Arul Anandar College (Autonomous),
Karumathur,
Madurai - 625 514.

... Petitioner

-vs-

1. The State of Tamil Nadu
re.by its Secretary
Department of Higher Education,
For St.George, Chennai - 600 009.
2. The Director of collegiate Education,
College Road, Chennai - 600 006.
3. The Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 001.
4. Madurai Kamaraj University,
Palakalai Nagar,
Madurai - 625 021,
rep.by its Registrar.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by 3rd respondent Joint Director in O.Mu.No.8519/U2/2016 dated 06.09.2016 quash the same and further Direct the 3rd Respondent Joint Director to approve forthwith the appointment of 10 teaching staff(Name List annexed) in the petitioner college and disburse the grant in aid towards their salary and allowances w.e.f the respective dated of their appointment viz. 18.06.2014 and 18.06.2015.

For Petitioner : Mr.T.Cibi Chakraborty
For RR - 1 to 3 : Mr.V.Pandi,
Government Advocate
For R - 4 : Mr.r.M.Mahesh Kumar

O R D E R



under challenge in this Writ Petition.

2. Heard the learned counsel appearing for the petitioner; the learned Government Advocate, who takes notice for the respondents 1 to 3 and the learned counsel who takes notice for the fourth respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner is the Secretary of Arul Anandar College (Autonomous) which is a private aided Minority College affiliated to the fourth respondent. The college is aided by the Government of Tamil Nadu. There are 64 teaching posts under the Aided Scheme and 31 posts have fallen vacant in recent years. The college filled ten posts on 18.06.2014 and 18.06.2015, which are permanent vacancies, which arose on account of retirement of the teachers, who have already been functioning for a long time in the petitioner college. The details of 10 appointments are as follows:

S.No	Name & Qualification	Department	Date of appointment	Vacancy details
1	Dr.Tmt.T.Kala M.A., M.Phil & Ph.D.	History	18.06.2014	Retirement of Dr.M.Salaman Bernadsha, Associate Professor, Department of History on 31.05.2014 A.N.
2	Dr.S.Martin M.Sc., Ph.D & SLET	Chemistry	18.06.2014	Retirement of N.Kriahna Moorthy, Associate Professor, Department of English on 31.05.2014 A.N.
3	Dr.Tmt.M.Gilbert Rani M.Sc., M.Phil & Ph.D.	Maths	18.06.2014	Transfer of Dr.Lellis Diwakar, Associate Professor, Department of Mathematics on 18.06.2014 A.N.
4	Dr.G.Ramkumar M.Sc., M.Phil., Ph.D.,	Maths	18.06.2014	Retirement of Dr.S.Salaipargunan, Associate Professor, Department of Mathematics on 31.05.2014 A.N.
5	Mr.V.Micheal Venish M.S., M.Phil., UGC - NET	Economics	18.06.2015	Retirement of Dr.M.Jeyapal, Associate Professor of Economics on 31.05.2015 A.N.

6	Dr.M.Arulappan M.A., Ph.D., UGC - NET & SET	Philosophy	18.06.2015	Retirement of Dr.T.Alex Principal, Associate Professor of Philosophy on 31.05.2015 A.N.
7	Dr.P.Anthony Raj M.A., M.Phil, & UGC - NET	Rural Development Science	18.06.2015	Retirement of Dr.Rev.Fr.V.Xavier, Associate Professor, Department of Rural Development Science on 31.05.2015 A.N.
8	Dr.A.James, M.S.W, M.Phil., UGC - NET & SLET	Rural Development Science	18.06.2015	Retirement of Dr.John Joseph, Associate Professor Department of Rural Development Science on 31.05.2015 A.N.
9	Dr.Mrs.J.Vanitha, M.P.Ed., M.Phil, Ph.D.,	Physical Education	18.06.2015	Retirement of Dr.I.Raju, Physical Director, Department of Physical Education on 31.05.2015 A.N.
10	Dr.S.Ganesh, M.A.M.Phil., P.h.D & UGC - NET	Tamil	18.06.2015	Retirement of Dr.N.Anandh, Associate Professor, Department of Tamil on 31.05.2015 A.N.

4.The college wanted approval for the above said appointment of 10 teachers, for which, the petitioner college submitted proposals to the third respondent by the letter dated 11.08.2016 along with all the required documents. But the third respondent has returned the said proposals by the impugned proceedings dated 06.09.2016 and directed to resubmit the same after getting prior permission from the Director of Collegiate Education, Chennai, the second respondent herein.

5.The learned counsel for the petitioner submitted that prior permission is not a *sine quo non* for getting approval and the issue involved in the present writ petition has already been decided by this Court in WP(MD)No.16897 of 2015, dated 15.06.2015, in which, at paragraph - 4, it has been held as follows:

"4.It is a well settled law by catena of decisions that whenever sanctioned posts are there and any vacancy arises due to retirement, death or resignation of the persons holding those posts, the same should be filled up by the concerned aided institution without loss of time, so that the education of the students would not be affected and the education of the



students is a paramount consideration in these matters. It is a different matter if a Teacher is appointed beyond the sanctioned strength. In this case, it is not in dispute that the petitioner was appointed by the fourth respondent college in the sanctioned post. Furthermore, the fourth respondent is a minority institution governed by Article 30 of the Constitution of India."

6. According to the learned counsel for the petitioner, in view of the above said decision, the impugned order dated 06.09.2016 is liable to be quashed.

7. The said contention is well founded and therefore, the proceedings of the third respondent is quashed, as the petitioner institution is a minority institution, which has an autonomous status also. Therefore, the respondents must grant approval to the appointment of ten teachers. Accordingly, the third respondent is hereby directed to grant approval for the appointment of ten teachers, in the light of the decision rendered by this Court in WP (MD) No. 16897 of 2015, dated 15.06.2015 and to pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petition is ordered accordingly. No costs. Consequently, connected WMP (MD) No. 13651 of 2016 is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu
Department of Higher Education,
For St. George, Chennai - 600 009.
2. The Director of collegiate Education,
College Road, Chennai - 600 006.
3. The Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 001.

+ 1 CC TO Mr. T. CIBI CHAKRABORTHY, ADVOCATE IN SR No. 58243
+ 1 CC TO Mr. R. M. MAHESH KUMARAVEL, ADVOCATE IN SR No. 59116
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 58276

MJ

TE/SKS-RR : 07/11/2016 : 4P/7C
<https://hcservices.ecourts.gov.in/hcservices/>

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