

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P No.29044 of 2017

M.Sardarmal Chordia,
Secretary,
Agurchand Manmull Jain College,
Meenambakkam,
Chennai 600 114. Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary,
Higher Education Department,
Secretariat,
Chennai 600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai 600 006.
- 3.The Joint Director of Collegiate Education,
Chennai Region,
Chennai 600 015 Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records in the order bearing Na.Ka.No.02552/002/2014 dated 19.06.2017 passed by the respondent No.3 and quashing the same and forbearing the respondents from requiring the petitioner to make a fresh application for renewal of minority status to the Agurchand Manmull Jain College, Meenambakkam, Chennai 600 114.

For Petitioner : Mr.M.Radhakrishnan
For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The petitioner college was established in the year 1952 and is being run by S.S.Jain Educational Society and was conferred minority status on 06.04.1988 and the college enjoyed the minority status until 2006-2007. Subsequently, the State

Government extended the minority status of the petitioner for a period of five more years from 2007-2008 to 2011-2012. Thereafter, the petitioner made a request on 30.03.2011 for renewal of minority status to the College from 2012-2013. However, the third respondent by communication dated 19.06.2017 returned the petitioner's application directing the petitioner to make a fresh application with all particulars, which are sought. The said order is being challenged before this Court.

2. Heard Mr.M.Radhakrishnan, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents.

3. Mr.M.Radhakrishnan, learned counsel for the petitioner would submit that once the minority status has been conferred on the petitioner, it is a permanent one and in this regard, he relied upon a Division Bench's Judgment of this Court rendered in W.A.No.1130/2013, (The State of Tamil Nadu and another Vs. The Secretary/Correspondent, Loyola College, Chennai and another), dated 11.09.2017.

4. However, T.M.Pappiah, learned Special Government Pleader would oppose the prayer.

5. The additional counter affidavit filed by the petitioner before this Court would show that there are about 10 committee members, out of whom 8 members are Jains and 2 are Hindus. Similarly, the management consists of 2 members, who are both Jains. Therefore, as on date also, the minority status of the institution is maintained. As rightly pointed out by Mr.Radhakrishnan, learned counsel for the petitioner, it is always open to the respondents to issue notice to the petitioner, if there are materials to come to the conclusion that the minority people have become minority in the trust or in the educational institution. When such is the position, the petitioner cannot be asked to file application after application periodically to renew the minority status. The Division Bench judgment of this Court also supports the petitioner's contention. Paragraph 9 of the judgment is extracted as follows: "9. Moreover, the argument advanced by Mr.Siva Shanmugasundaram, that grant of permanent minority status does not allow monitoring and regulation, has been answered, as rightly argued by the learned counsel for respondent No.1, in paragraph 7 of the judgment rendered in: Jeyaraj Annapackiam College. For the sake of convenience, the relevant observations are extracted hereafter:7. We are in entire agreement with the Division Bench judgment of this Court reported in Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational and Charitable Trust, Salem V. State of Tamil Nadu. Accordingly, the order of the learned Single Judge is set aside. The minority status given to the appellant will hold good without

any restriction period. However, if the respondents are able to find any change in the constitution of educational agency or if the institution is run contrary to the Memorandum of Association/Bye-laws of the Society, it is open to the Government to issue notice and take appropriate decision in accordance with law... "

6. Therefore, the impugned order is quashed as the minority status already granted still holds good. Hence, this Writ Petition is allowed. No costs. However, it is made clear that it is always open to the respondent to take action, if it is found that the institution or trust has lost its minority character.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary,
Higher Education Department,
Secretariat,
Chennai 600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai 600 006.
- 3.The Joint Director of Collegiate Education,
Chennai Region,
Chennai 600 015

+1 CC to Mr.M. Radhakrishanan, Advocate sr 83057.
+1 CC to Govt. Pleader sr 83647.

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SP(05/12/2017)