

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.14597 of 2004
and
WP.MP.No.17307 of 2004

S.Murali ... Petitioner

Vs.

1.Government of Tamil Nadu,
rep. by its Secretary,
Department of Education,
Chennai - 9.

2.The Director of Collegiate Education,
Chennai - 6.

3.The Joint Director of Collegiate Education,
Madurai - 20.

4.The Secretary,
Madura College,
Madurai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to Na.Ka.No.30308/G3/2003, dated 11.05.2004 issued by the second respondent and quash the same.

For Petitioner

: Mr.R.Subramanian

For Respondents

: Mrs.M.E.Rani Selvam

Addl. Government Pleader
for respondents 1 to 3

ORDER

The petitioner seeks a writ of certiorari to quash the proceedings of the second respondent in Na.Ka.No.30308/G3/2003, dated 11.05.2004.

2. The grievance of the petitioner is that he had joined in the fourth respondent college on 18.12.1992 as Lecturer in Hindi in a permanent vacancy and his services were also regularised. The impugned proceedings came to be passed stating that the minimum number of students should not be less than 20 in the case graduation courses. The second respondent had issued the impugned proceedings dated 11.05.2004 stating that the admission to the graduation courses in Hindi has been stopped since there is no minimum strength. Challenging the impugned proceedings, the petitioner has come forward with this writ petition.

3. No counter-affidavit has been filed by the respondents.

4. I heard Mr.R.Subramanian, learned counsel appearing for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents 1 to 3 and also perused the materials available on record.

5. The learned counsel for the petitioner submitted that as per Section 25 of the Tamil Nadu Private Colleges Regulation Act, 1976, no course of instruction shall be closed without notice and the second respondent has failed to see that for the academic years 2000-2001, 2001-2002 and 2002-2003, the student strength has been more than 10. He would submit that the second respondent failed to see that only after admissions were made, the college will be in a position to know the number of students for the present academic year and the impugned order is violative of principles of natural justice and had been issued without even ascertaining the strength.

6. The learned counsel for the petitioner further submitted that at the time when the writ petition was admitted, interim stay was granted and based on the interim stay, the petitioner continued in service and he was paid salary. The learned counsel would submit that there was an increase in student strength and that subsequently, there was enough student strength in the fourth respondent college to continue the courses in Hindi.

7. The learned Additional Government Pleader submitted that the petitioner is now employing as Associate Professor in the fourth respondent college and had produced the certificate issued by the fourth respondent college to that effect. The

learned Additional Government Pleader also produced the letter addressed by the Principal of Madura College to the second respondent and submitted that for the past five years there was enough student strength in the fourth respondent college.

8. It appears that the respondent authorities have field WVMP.No.1218 of 2006 to vacate the interim order dated 25.05.2004 granted in WP.MP.No.17307 of 2004. By an order dated 04.01.2008, the interim order granted by this Court dated 25.05.2004 was made absolute. As against the same, no appeal has been filed and pursuant to the interim order, the petitioner is still in service.

9. It is to be noted that after passing the impugned proceedings, on 18.05.2004 the fourth respondent sent a letter to the second respondent stating that the student strength was more than 10. The communication of the fourth respondent dated 18.05.2004 has not been disputed by the respondents 1 to 3.

10. During the course of argument, the learned counsel for the petitioner has produced an order dated 28.01.2011 passed in W.P.No.17299 of 2006, wherein the impugned proceedings dated 11.05.2004 was challenged and the learned Single Judge of this Court, while quashing the impugned order, observed as under:

"5. In view of the subsequent developments, particularly, increase of student strength and the petitioner has been paid salary during the period of stay, the impugned order cannot be sustained.

6. In the result, the impugned order dated 11.05.2004 is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed."

11. The petitioner is similarly placed person and the order passed by this Court in W.P.No.17299 of 2006 is squarely apply to the case on hand.

12. Following the order in W.P.No.17299 of 2006, dated 28.01.2011, the writ petition is allowed and the impugned proceedings in Na.Ka.No.30308/G3/2003 of the second respondent dated 11.05.2004 is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

vs

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Department of Education,
Chennai - 9.

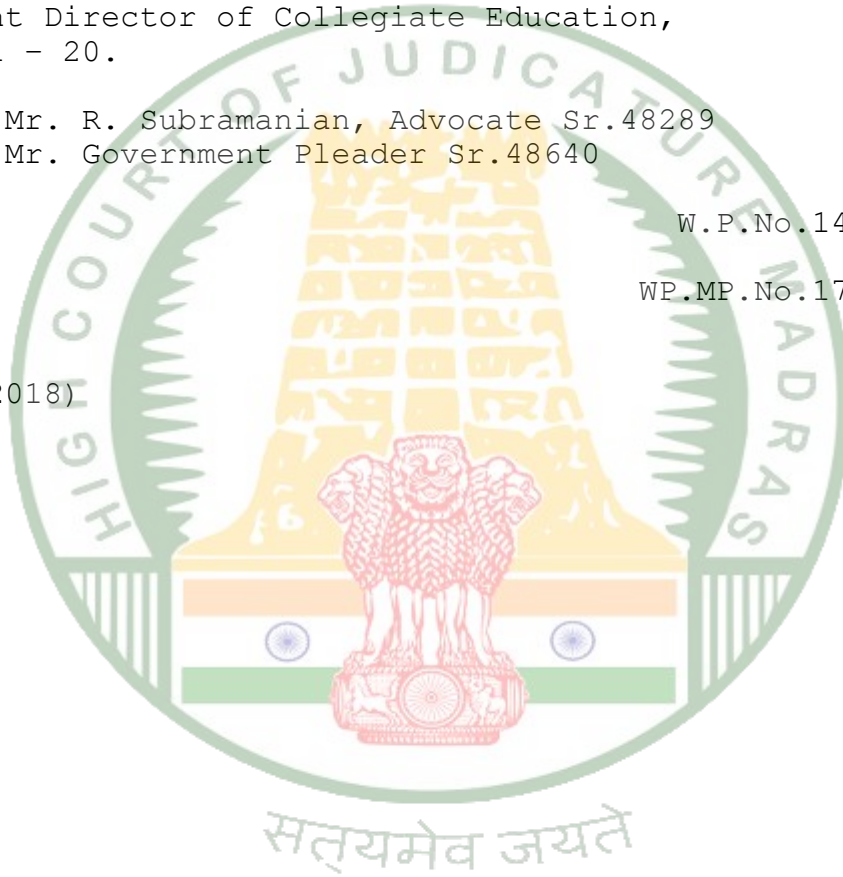
2.The Director of Collegiate Education,
Chennai - 6.

3.The Joint Director of Collegiate Education,
Madurai - 20.

+ 1 cc to Mr. R. Subramanian, Advocate Sr.48289
+ 1 cc to Mr. Government Pleader Sr.48640

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(CS-IX)
EU(12/07/2018)



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