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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.04.2017
CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.399 of 2017
and
C.M.P.(MD) Nos.3597 & 3598 of 2017

K.Sivagami ... Appellant

-vs-

1.State of Tamil Nadu
rep.by its Principal Secretary
Department of Higher Education
Fort. St.George, Chennai

2.The Director of Collegiate Education
College Road, Nungampakkam
Chennai-6

3.The Commissioner
Hindu Religious and Charitable Endowments
Nungampakkam, Chennai

4.Arulmigu Palani Andavar Arts College
for Women (Autonomous)
rep.by its Secretary / Deputy Commissioner
(Full Additional Charge)
Chinnakalayamputhur, Palani
Dindigul District

5.The Correspondent
Arulmigu Palani Andavar Arts College
for Women (Autonomous)
Chinnakalayamputhur, Palani
Dindigul District ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 01.03.2017, in W.M.P.(MD) No.2894 of 2017 in W.P.(MD) No.3573 of 2017, on the file of this Court.

Prayer in WMP(MD). 2894/ 2017 :
To pass an order of Interim Stay of operation of the impugned Advertisement in DIPR/1341/Display/2016 dated 23.12.2016 on the file of the respondent No.4 pending disposal of the WP and thus render justice.

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Prayer in WP(MD). 3573/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Advertisement in DIPR/1341/Display/2016 dated 23.12.2016 on the file of the respondent No.4 and quash the same as illegal and consequently for a direction, directing the Respondent No. 4 to appoint the petitioner in the post of Principal in accordance with the Rule 11(4) of the Tamil Nadu Private Colleges(Regulation) Rules, 1976 within the time period stipulated by this Honble Court

For Appellant : Mr.T.Lajapathi Roy

For Respondents : Mr.V.Muruganantham
Addl. Govt. Pleader for R1 to R3
Mr.K.Govindarajan for R4 & R5

J U D G M E N T

[Judgment of the Court by **T.S.SIVAGNANAM, J.**]

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellants, Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.K.Govindarajan, learned counsel appearing for the respondents 4 and 5 and carefully perused the materials placed on record.

2. This writ appeal is directed against the interim order, dated 01.03.2017, made in W.M.P.(MD) No.2894 of 2017 in W.P.(MD) No.3573 of 2017.

3. We find that the miscellaneous petition filed by the appellant in the writ petition is still pending and not finally disposed of. Therefore, technically, the writ appeal is not entertainable as there is no finality to the order passed in the miscellaneous petition.

4. The appellant is aggrieved by the notification issued by the respondent – College calling for applications from the eligible candidates for the post of Principal. His case is pitched upon the provisions of Tamil Nadu Private Colleges (Regulation) Act, 1976 and it is submitted that at the first instance, the candidates available in the College as per the seniority list should be considered and only if the candidate is not found to be suitable, then direct recruitment can be resorted to. In support of such contention, reliance has been placed upon the decision in **Nehru Memorial College v. The State of Tamil Nadu & others,** reported in **2003 Writ L.R. 31.**

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5. The learned counsel appearing for the respondent – College, on the other hand, would submit that the Tamil Nadu Private Colleges (Regulation) Act was enacted during 1976. Thereafter, University Grants Commission has passed several notifications and regulations, which not only pertain to the qualifications of the eligible candidates, but also prescribe the manner and method of selection to the post of Principal on a College. Therefore, in accordance with the procedures stipulated by the University Grants Commission, the respondent – College has issued the impugned notification and the appellant has also applied for the said post.

6. It is stated that the interview is scheduled to be conducted on 17.04.2017 and the appellant will also be permitted to participate in the interview before a panel consisting of eight eminent persons, five of whom are outsiders as per the guidelines / regulations of the University Grants Commission. Therefore, the appellant should participate in the selection process and reserve all her arguments in the writ petition.

7. The writ appeal is disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

1.The Principal Secretary,
Department of Higher Education,
Fort. St.George, Chennai.

2.The Director of Collegiate Education,
College Road, Nungampakkam,
Chennai-6.

3.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungampakkam, Chennai.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 52484
+1 CC to M/s. K.GOVINDARAJAN, Advocate, SR No. 52445

KRK/SKM
PSM/SV-MMS/SAR3/27.04.2017/3P/6C

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