



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2017

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE R. MAHADEVAN**W.P(MD) No.12711 of 2016 and**
W.M.P. (MD) No.9613 of 2016

The Secretary
Kalai Kaviri College of Fine Arts,
18, Benwells Road,
Tiruchirapalli-620 001.

... Petitioner

-vs-

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St.George, Chennai-600 009.
2. The State of Tamilnadu,
Rep. by its Secretary,
Department of Tourism, Culture and Religious Endowments,
Fort St.George, Chennai-600 009.
3. The Directorate of Arts and Culture,
Rep. by its Commissioner,
Tamil Valarchi Valagam, 2nd Floor,
Halls Road, Egmore, Chennai-600 008.
4. The Director of Collegiate Education,
College Road, Chennai-600 006.
5. The Assistant Director,
Regional Centre for Arts and Culture,
Tiruchirapalli, Tiruchirapalli District.
6. The Joint Director of Collegiate Education,
Tiruchirapalli Region, Tiruchirapalli,
Tiruchirapalli District-620 020.
7. Tamilnadu Music and Fine Arts University,
Rep. by its Registrar,
Dr.D.G.S.Dinakaran Salai,
Chennai-600 028.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order issued by the 2nd respondent State Government vide G.O.(Ms) No. 145 Tourism and Culture (PN-1-2) Department dated 24.08.2007 and quash the same in so far as it



restricts the minority status of the petitioner -college, namely, Kalai Kaveri College of Fine Arts Tiruchirappalli District to a limited period of 5 years from 2007 to 2012.

For Petitioner : Mr.T.Cibi Chakraborty
For R1 to R6 : Mr.J.Gunaseelan Muthiah
Govt. Advocate

ORDER

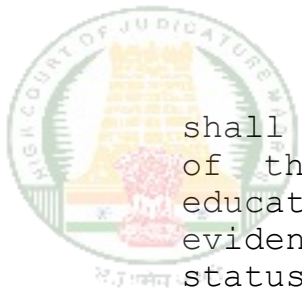
This writ petition has been filed, seeking to quash the impugned order of the 2nd respondent in G.O.(Ms) No. 145 Tourism and Culture (PN-1-2) Department dated 24.08.2007, by which the petitioner-college was recognized as Christian Religious Minority Institution only for a limited period of five years, viz., 2007 to 2012.

2. The case of the petitioner is that the petitioner-college, affiliated to the 7th respondent University, was established in the year 1996 and though the petitioner-college has been recognized as a Religious Minority Educational Institution by G.O.(Ms) No. 145 Tourism and Culture (PN-1-2) Department dated 24.08.2007, its status as a Minority Institution has been restricted to a limited period of five years from 2007 to 2012. Challenging the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for R1 to R6 and perused the materials available on record.

4. The contention of the learned Counsel appearing for the petitioner-college is that once an institution is declared to be a minority, there cannot be any restriction of specific period. The learned Counsel has made reliance upon the Judgment of a Division Bench of this Court in **Secretary, Jeyaraj Annapackiam College. Vs.State of Tamil Nadu**, reported in **(2013) 8 MLJ 509**, wherein it has been held that such a restriction cannot be accepted in the eye of law. In the said Judgment, referred to supra, the Division Bench was pleased to hold as follows:

"6. The reason given by the learned single Judge for distinguishing the said judgment is that the matter is pending before the Hon'ble Supreme Court regarding the issue of grant of minority status to linguistic minorities. It is relevant to note herein that the appellant College is a religious minority institution, viz. Christian religion. It may be noted that Christians are minorities not only throughout India but also in the State of Tamil Nadu. The same is also made clear in the Government Order issued in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. In paragraph 8(vi), it is stated that to decide whether an applicant is a minority or not based on religion or language, the total population of that minority in the State of Tamil Nadu



shall be taken into consideration and not the population of that minority in any particular region where the educational institution is situated. Therefore, it is evident that the impugned order restricting minority status which was upheld by the learned single Judge is without noticing the said guidelines issued by the Government itself in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. It is also to be noted that the said Government Order, nowhere states that minority status can be given to a limited period. The Government is also not doubting the claim of minority status of the appellant-College. Hence the order restricting the period is without any rhyme or reason.

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* stated *supra*. 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."

5. In view of the said pronouncement, the order impugned is hereby set aside, insofar as it restricts the minority status given to the petitioner institution only for a period five years. 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. In fine, the writ petition is allowed as indicated above. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary,
State of Tamil Nadu,
<https://hcservices.ecourts.gov.in/hcservices/>
Department of Higher Education,
Fort St.George, Chennai-600 009.



2. The Secretary,
State of Tamil Nadu,
Department of Tourism, Culture and Religious Endowments,
Fort St.George, Chennai-600 009.

3. The Commissioner,
Directorate of Arts and Culture,
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4. The Director of Collegiate Education,
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5. The Assistant Director,
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6. The Joint Director of Collegiate Education,
Tiruchirapalli Region, Tiruchirapalli,
Tiruchirapalli District-620 020.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 84654

+1cc to Mr.T.CIBI CHAKRABORTHY Advocate in SR. No. 84804

AR

JS/KP/SAR.1/17.11.2017/4P-9C

W.P(MD) No.12711 of 2016
30.10.2017