

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 02.06.2017****CORAM :****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****W.P (MD) No.7415 of 2017****and****W.M.P (MD) No. 5808 of 2017**

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

... Petitioner

Vs.

01. The State of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Fort St.George, Chennai-600 009.

02. The Director of Collegiate Education
College Road, Chennai-600 006.

03. The Joint Director of Collegiate Education
Madurai Region, Madurai-625 001.

04. Madurai Kamaraj University,
Palkalai Nagar, Madurai-625 001.
Represented by its Registrar.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding, issued by the third respondent Joint Director in O.Mu.No.12332/U3/2016, dated 12.01.2017, quash the same and further direct the third respondent, Joint Director to approve forthwith the appointment of four teaching staff (Name List annexed) in the petitioner's College and disburse the grant-in-aid towards their salary and allowances with effect from the respective dates of their appointment viz., 16.06.2016.

For Petitioner : Mr.Cibi Chakraborty,
For M/s.Isaac Chambers.

For Respondents : Mr.N.S.Karthikeyan,
Additional Government Pleader.

**ORDER**

Heard, Mr.Cibi Chakrabarthy, for M/s.Isaac Chambers, counsel appearing for the petitioner and Mr.N.S.Karthikeyan, Additional Government Pleader appearing for the respondents.

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2.This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, challenging the impugned proceedings of the third respondent dated 12.01.2017, returning the proposal, submitted by the petitioner for the appointment of four teaching staff represented in the order on the ground that no prior permission was obtained from the Director of Collegiate Education for filling the vacant posts and that the minority status given to the petitioner's Institution vide G.O.Ms.No.155, Higher Education (El) Department, dated 21.05.2008, was neither extended nor fresh permission obtained.

3.The facts in this case are not in dispute. The petitioner's College is a minority educational Institution. The petitioner's College attained Autonomous status during the academic year 1987-1988. The petitioner-College is aided by the Government of Tamil Nadu. In the petitioner-College, there are 64 teaching posts under the aided sections. Out of 64 teaching posts available in the petitioner's Institution, four posts fell vacant in the recent years. The petitioner's Institution had filled up all the four posts on 16.06.2016. It is not in dispute that the posts are sanctioned posts and fell vacant due to the retirement and relieving of then incumbents. The persons appointed in the four posts are fully qualified. According to the petitioner, the appointments are also within the staff strength fixed by the second respondent, namely, the Directorate of Collegiate Education by proceedings dated 28.10.1999.

4.When the petitioner College submitted the proposal to the fourth respondent University for getting qualification approval for the four Teachers, the University granted qualification approval vide proceedings dated 18.10.2016.

5.The petitioner-College also submitted all the relevant and required documents along with the proposal. However, by the impugned proceedings, the third respondent had returned the proposal only on the two grounds that there is no prior permission from the Directorate of Collegiate Education to fill up the vacant posts in the petitioner's Institution and that the minority status given to the petitioner's Institution was only for the Academic Year between 2011 and 2013 without further extension.

6.This Court has repeatedly held that prior permission from the Directorate of Collegiate Education is not required, when appointments were made against the sanctioned posts, which fell vacant and the Teachers are qualified to the posts, in which, they



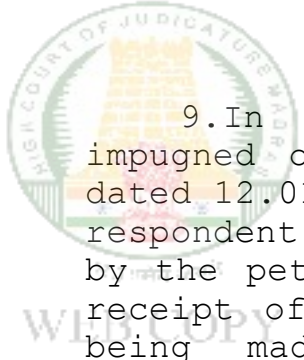
were appointed. The question whether prior permission is required from the Directorate of Collegiate Education before the appointment of teaching staff in Private Aided Colleges is no more *res integra* and the matter is covered by several decisions of this Court and the learned Additional Government Pleader also accepted the legal positions as reiterated by this Court in a number of judgments.

7.This Court, in W.P (MD).No.3315 of 2015, following the judgment of the Division Bench of this Court in ***P.Ravichandran vs. State of Tamil Nadu represented by the Secretary to Government, Department of Higher Education, Chennai and others*** reported in (2013) 7MLJ64, has held that no prior permission from the Directorate of Collegiate Education is required before filling up the teaching posts in private minority Institutions. However, the person appointed must be eligible and the qualification of teacher is required to be approved by the concerned University in which the College is affiliated. The only other requirement is that the post must be the sanctioned post and there is vacancy.

8.One of the grounds stated in the impugned order is about the status of the petitioner's Institution. It is not in dispute that the petitioner is a recognized minority educational Institution, protected and enjoying the privilege under Article 38 of the Constitution of India. It is not in dispute that the petitioner Institution was granted minority status for a period of five years from 2007-2008 to 2011-2012. Challenging the restrictions imposed on the petitioner after granting a declaration as to its minority status, the petitioner Institution filed a W.P(MD)No.15321 and 20181 of 2015, dated 04.12.2015, wherein this Court passed the following order:-

"5.Accordingly, the portion of G.O.(Ms).No.155, Higher Education (E1) Department, dated 21.05.2008 and G.O.(Ms).No.121, Higher Education (E1) Department, dated 20.05.2009, limiting the minority status period is quashed and the minority status given to the petitioners' Colleges will hold good without any restriction as to period. However, this Court could not preclude the Government to take action if there is 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."

By virtue of the order in the writ petition, the minority status given to the petitioner's College hold good without any restriction as to the said period. Hence the impugned order passed by the third respondent dated 12.01.2017 is liable to be



9. In the result, this Writ Petition is allowed and the impugned order passed by the third respondent vide proceedings dated 12.01.2017 is set aside. The proposal returned by the third respondent vide proceedings dated 12.01.2017, shall be resubmitted by the petitioner within a period of two weeks from the date of receipt of a copy of this order. On such fresh representation being made by the petitioner within the said period, the third respondent is directed to grant approval to the appointment of four teaching staffs within a period of four weeks from the date of receipt of copy of the representation from the petitioner College. The respondents are also directed to disburse the salary and other benefits to the Teachers as applicable to the posts. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

01. The Secretary to Government,
Department of Higher Education,
Fort St. George, Chennai-600 009.
02. The Director of Collegiate Education,
College Road, Chennai-600 006.
03. The Joint Director of Collegiate Education,
Madurai Region, Madurai-625 001.
04. The Registrar,
Madurai Kamaraj University,
Palkalai Nagar, Madurai-625 001.

+1cc to Spl. Government Pleader Sr.No.58490
+1cc to M/s. Isaac Chambers, Advocate Sr.No.58389

KM/MYR

VB/KKR/SAR2/14.06.2017/4P/7C

W.P. (MD) No.7415 of 2017

and

WMP (MD) No. 5808 of 2017

02.06.2017