



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2017

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.(MD)No.8694 of 2016

and

WMP(MD)No.6946 of 2016

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Gerald Selvaraja
Managing Trustee-cum-Chairman
Nesamony Memorial Trust,
Kollanvilai, Karungal-629 157,
Kanyakumari District

Now residing at Macomb, Michigan, U.S.A
represented by his Power of Attorney Holder,
Mr.Davy Christopher

: Petitioner

-vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of Higher Education,
Fort St. George,
Chennai-600 006.
- 2.The Director of Collegiate Education,
College Road, Chennai-600 006.
- 3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli, Tirunelveli District-627 007.
- 4.Manonmaniam Sundaranar University,
rep. by its Registrar,
Abishekapatti,
Tirunelveli, Tirunelveli District.

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 1st respondent State Government in Letter (D)No.125, dated 13.04.2016, quash the same and further direct the 1st respondent State Government herein to recognise forthwith the status of the petitioner as a Christian Religious Minority Educational Agency for running the proposed college namely Bethlahem College of Arts and Science, Karungal, Kanyakumari District.



For Petitioner

: Mr. Isaac Mohanlal
Senior counsel
for Mr. T. Cibi Charaborthy

For R1 to R3

: Mr. A. Muthukaruppan
Additional Government Pleader

For 4th Respondent

: Mr. M. Mahaboob Ashiff
for M/s. Ajmal Associates

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O R D E R

The petitioner has come up with the present writ petition challenging the order of the 1st respondent, dated 13.04.2016 and for a direction to the first respondent/State Government to recognise forthwith the status of the petitioner as Christian Religious Minority Educational Agency.

2. Heard Mr. Isaac Mohanlal, learned Senior counsel for the petitioner, Mr. A. Muthukaruppan, learned Additional Government Pleader for the respondents 1 to 3, Mr. M. Mahaboob Athiff, learned counsel for the 4th respondent and perused the materials available on record.

3. According to the petitioner, it is a trust and it was created in the year 2001 with an object to promote Health and Education for the uplift of the poor Christians and the downtrodden among the rural population and to establish educational institutions for the deprived sections of the society.

4. The petitioner would further state that the trust is running three educational institutions namely Bethlahem Institute of Engineering, Bethlahem College of Education and Bethlahem Matriculation Higher Secondary School in the District of Kanyakumari. The trust is the Educational Agency of all the educational institutions and the members of the trust belong to the Protestant order of Christianity. All the educational institutions have been functioning as Minority Educational Institutions in terms of Article 30(1) of the Constitution of India. The State Government has also conferred the religious minority status to the petitioner institutions.

5. It is further stated that the trust has recently decided to start an Arts and Science in the name of Bethlahem College of Arts and Science at Mathiyode Village in the District of Kanyakumari District. When the petitioner has approached the officials of the 4th respondent University seeking affiliation, it was informed that unless the Government grants minority status or prior permission, they would not process the application. So the petitioner filed an application to the first respondent for a formal declaration of the minority status. Since, it was rejected, the present writ petition.

<https://hcservices.ecourts.gov.in/hcservices/>

6. The respondents 1 to 3 filed a counter affidavit stating that



as per G.O.Ms.No.270, Higher Education Department, dated 17.06.1998, minority status can be conferred only to the educational institutions already established by the minority.

7. By the impugned order, the first respondent rejected the application of the petitioner on the only ground that the minority status cannot be conferred to the college proposed to be started by the petitioner trust.

8. Learned Senior counsel for the petitioner, referring to sections 3, 4, 5 and 8 of the Tamil Nadu Private Colleges (Regulation) Act, 1976 submitted that the trust is an educational agency and even without establishing an educational institution, the educational agency is entitled to seek minority status for the institution proposed to be started by the petitioner trust. Therefore, the reasons given by the first respondent cannot be countenanced. In support of his case, the learned Senior counsel has placed reliance on the following judgments:-

(1) 2015(1) CWC 557 [The Secretary, Immaculate College for Women vs. The State of Tamil Nadu]

2. Unreported decision of this court made in W.P.No.43331 of 2016, dated 06.07.2017 [The Secretary, St. Theresa's Arts and Science College for Women, Santhangudi, Tharangambadi, Nagapattinam District]

9. Mr. A. Muthukaruppan, learned Additional Government Pleader for the respondents 1 to 3 contended that the petitioner seeks minority status based on the G.O.Ms.No.270, Higher Education Department, dated 17.06.1998, but as per the G.O, only after establishment of the institution, the petitioner can seek minority status.

10. In **2015(1) CWC 557** [The Secretary, Immaculate College for Women vs. The State of Tamil Nadu], this court after considering the relevant provisions of the Tamil Nadu Private Colleges Regulation Act, 1976 and G.O.Ms.No.270, Higher Education Department, dated 17.06.1998, has held that without establishing institutions, the educational agency is entitled to seek minority status and remitted the case to the Government to pass an order afresh. The relevant paragraph would run thus:-

"21. In K.M. Benedict Crizal vs. Secretary to Government, decided on 11.07.2007, by K. Chandru, J., in W.P(MD) No. 9424 of 2006, the learned Judge rejected a very identical contention raised by the respondents. Therefore, I am of the view that the stand taken by the respondents either in the impugned order or in the counter affidavit cannot be sustained. Hence, W.P.No.22376 of 2014 is allowed, the impugned order is set aside and the respondents are directed to pass appropriate



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orders in accordance with law, within a period of eight weeks, taking into account the fact that the original Educational Agency, namely, the Society registered under the Tamil Nadu societies Registration Act, has already been conferred with Minority Status and that they are also running several institutions. After the first respondent passes an order, the University shall take up the application and pass consequential orders. The other writ petitions are closed, in view of the fact the last writ petition is for a larger relief and it has been disposed of as above. Consequently, connected M.Ps are closed."

11.This court in **W.P.No.43331 of 2016**, dated 06.07.2017 [The Secretary, St. Theresa's Arts and Science College for Women, Santhangudi, Tharangambadi, Nagapattinam District] has taken the similar view.

12.In the instant case, it is not in dispute that the petitioner trust has already been running several institutions and the Government has conferred minority status to the institutions run by the petitioner trust. It is also not in dispute that the educational agency includes body of persons established and administered or proposed to establish and administer any institution.

13.In the light of above facts, I am of the considered opinion that the judgments referred supra would squarely apply to the case on hand.

14.In that view, this writ petition is **allowed** and the impugned order passed by the first respondent is set aside. Consequently, the matter is remitted back to the first respondent to pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of the order copy, taking into account the fact that the original Educational Agency has already been conferred with Minority status and that they are also running several institutions. After the first respondent passes an order, the 4th respondent University shall take up the application of the petitioner and pass consequential orders. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To,

1.The Secretary,
Government of Tamil Nadu,
Department of Higher Education,
Fort St. George, Chennai-600 006.

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

3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli, Tirunelveli District-627 007.

+1cc to Mr.T.CIBI CHAKARABORTHY Advocate in SR. No. 81000

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JS/KK/SAR.1/4.10.2017/5P-5C

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22.09.2017