IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WRIT PETITION No.3168 of 2018

Rabiammal Ahamed Maideen Educational Trust,
(administering Rabiammal Ahamed
Maideen College for Women)
rep. by its Secretary,
"White House", No.55A, South Main Street,
Tiruvarur - 610 001. ... Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. By its Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Director of Collegiate Education,
DPI Campus, College Road,
Nungambakkam,
Chennai 600 034.

3. Tamil Nadu Transport Development
Finance Corporation Limited,
Tamil Nadu Tourism Complex,
No.2, Walajah Road,
Chennai 600 002. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 1st and 2nd Respondents to allow the Petitioner/College to encash the Cash Endowment in Fixed Deposit for Rs.20 Lakhs with the 3rd Respondent and to direct the 3rd Respondent to release the said Cash Endowment in Fixed Deposit for Rs.20 Lakhs to the Petitioner/College within a time frame.

For Petitioner	:	Mr.L.S.M.Hasan Fizal
For Respondents 1 & 2	:	Mr.A.Rajaperumal, Addl. Government Pleader
For 3rd Respondent	:	Mr.P.Kannan Kumar

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ORDER

Petitioner/Trust has come up with the present Writ Petition seeking a direction to the 1st and 2nd Respondents to allow them to encash the Cash Endowment for Rs.20 Lakhs in Fixed Deposit with the 3rd Respondent and for a direction to the 3rd Respondent to release the said amount to them within a stipulated period.

2. According to the Petitioner, their Trust was constituted vide Deed of Declaration of Trust, dated 24.08.1998 and their primary object is to establish Educational Institutions for imparting higher education to rural girl students at affordable costs. Since there was no Women's College at Tiruvarur, the Petitioner established Rabiammal Ahamed Maideen College for Women in 1999, to cater to the needs of rural, poor girl students, who are unable to pursue collegiate education after their Schooling.

3. The Petitioner/Trust had applied to the Government through the 1st and 2nd Respondents and the Regional Joint Director of Collegiate Education for approval for establishing the said College as an Un-aided, Self-financing, Minority, Private Women's College and to commence imparting collegiate education and had complied with the conditions stipulated by the Government. Inter-alia, the Petitioner deposited Cash Endowment by way of Fixed Deposit for Rs.20 lakhs with the 3rd Respondent for a minimum period of 5 years, jointly in the names of the Petitioner and the 2nd Respondent, even prior to the receipt of the Letter of Indent from the Government and enclosed the Fixed Deposit Receipt with the Application.

4. On the basis of the compliance of all the conditions stipulated, the Government vide G.O.Ms.No.146, Higher Education (E1) Department, dated 08.04.1999, had accorded permission to establish the College and commence courses in B.Sc. Computer Science, B.Com. & B.Sc. Bio-Chemistry, from the academic year 1999-2000, after getting affiliation from Bharathidasan University, Tiruchirappalli.

5. Pursuant thereto, the Petitioner vide Applications dated 23.04.1999 and 26.04.1999 applied to Bharathidasan University, Tiruchirappalli, for affiliation. Based on the Syndicate's Resolution, dated 28.05.1999, the College was inspected by the Inspection Committee on 13.06.1999 and based on their Report, Bharathidasan University, Tiruchirappalli, had granted affiliation to the College vide Letter dated 10.07.1999.

6. The case of the Petitioner is that the Government in G.O.Ms.No.356, Higher Education (E1) Department, dated 29.09.2009, has revised the Guidelines for establishing Self-

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Financing Arts & Science Colleges from the academic year 2010-2011 and that it has not stipulated the outer limit for the maintenance of the said Cash Endowment. Hence, the Petitioner approached the 2nd Respondent to permit them to withdraw Rs.20 Lakhs Cash Endowment from the 3rd Respondent, to enable them to utilize the said fund for various institutional/infrastructural developments, in view of the stipulation to maintain the said Cash Endowment only for 5 years and since the Petitioner has complied with the said stipulation for more than 12 continuous years.

7. While so, the 2nd Respondent had stated that the Cash Endowment has to be maintained permanently, until the existence of the College, since the said Government Order, which is in vogue, reiterates maintenance of Endowment only for 5 years. In this regard, the Petitioner made representations to the Authorities concerned, by elaborating the factual position. As there was no response, the Petitioner kept sending several reminders. In the meanwhile, the Petitioner renewed the Cash Endowment Fixed Deposit, as it had to be renewed periodically every three years.

8. Also, the Petitioner vide Letter dated 20.08.2015 sought information under the Right to Information Act, 2005, as to the outer time limit for the maintenance of the Cash Endowment by the newly established Self-Financing Colleges and to furnish a copy of the stipulations made by the Government, with respect to withdrawing the same. The Public Information Officer (PIO) vide communication dated 01.09.2015, had replied that the Government has not issued any order for withdrawal of the Endowment of Rs.20 Lakhs being made by the newly established Colleges and went on to state that the interest derived from the Fixed Deposit has to be utilized for development purposes. In this regard, the Petitioner again sought information under the Right to Information Act, 2005 and the Public Information Officer vide communication dated 02.11.2017, replied that as per G.O.Ms.No.858, Education Department, dated 15.07.1989, the income from the endowment should be utilized to meet the recurring expenditure of the Institution.

9. As the Petitioner/Trust did not get proper reply to the query raised by them, concluding that there is no Government Order mandating continuance of the endowment for any definite period, they are before this Court for the above relief.

10. On behalf of Respondents 1 and 2, counter affidavit has been filed. According to them, the contention of the Petitioner that the Government has ordered to deposit the endowment amount for a minimum period of five years only, is misconstrued and misleading. The endowment of Rs.20 lakhs has been fixed by the

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Government in order to maintain the smooth administration of the College, thereby safeguarding the interest of students' community, lecturers and staff of the College. Moreover, the Government has not stipulated that the endowment should be deposited only for a period of five years and thereafter, the amount can be withdrawn by the Educational Agency.

11. It is further stated by Respondents 1 and 2 that the Petitioner has given an Undertaking with the approval of the members of the Trust that they would abide by the orders of the Government issued from time to time in running the self-financing Institution and accordingly, they have deposited the endowment amount for a consecutive period of 20 years in the 3rd Respondent/Corporation. It is their case that the income from the endowment should be utilized fully to meet the recurring expenditure of the College and that the Management should not expect any aid from the Government for any purpose at any time for any non-recurring expenditure.

12. To the contention of the Petitioner that the Endowment has to be maintained only for a period five years as per the Government Order, Respondents 1 and 2 have stated that the Government, in fact, has ordered that the endowment has to be deposited at least for a minimum period of five years at one point of time and hence, the question of withdrawal of the Cash Endowment does not arise.

13. Heard the learned counsel for the parties. Admittedly, the Petitioner/Trust has given an Undertaking that they would abide by the orders of the Government issued from time to time in running the College and accordingly, they have deposited the endowment amount of Rs.20 lakhs with the 3rd Respondent/Corporation in Fixed Deposit. Though the Petitioner seeks permission to withdraw the Endowment amount to utilize the same for various institutional developments, the intention of the Government is to retain the endowment amount in the Fixed Deposit to ensure smooth administration of the College, to enable the Management meet the recurring expenditure of the College. Undoubtedly, recurring expenditure of the Institution can be met, only if the Endowment amount of Rs.20 lakhs is permanently maintained in the Fixed Deposit on the strength of the Government Order in question. If the Petitioner is allowed to withdraw the Endowment amount, the purpose of Endowment will be defeated, as there are chances of incurring unexpected expenditure too.

14. Though, no outer limit is specified in G.O.Ms.No.356, Higher Education (E1) Department, dated 29.09.2009 as to the maintenance of Cash Endowment in Fixed Deposit, it is seen that the Public Information Officer (PIO) in his reply dated

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01.09.2015 to the query raised by the Petitioner, has stated that the Government has not issued any order for withdrawal of Endowment of Rs.20 lakhs being made by the newly established Colleges and that the interest amount from the Fixed Deposit has to be utilized for development purposes.

15. In view of the above, this Court is of the view that the Cash Endowment of Rs.20 lakhs deposited by the Petitioner/Trust in Fixed Deposit with the 3rd Respondent/Corporation has to be renewed periodically, as long as the College exists, to ensure smooth running of the Institution.

The Writ Petition stands dismissed with the above observation. No costs. Consequently, connected W.M.P.No.3885 of 2018 is closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

(aeb)

To:

1. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Director of Collegiate Education,
DPI Campus, College Road,
Nungambakkam, Chennai 600 034.

3. Tamil Nadu Transport Development
Finance Corporation Limited,
Tamil Nadu Tourism Complex,
No.2, Walajah Road, Chennai 600 002.

+1cc to Mr.L.S.M.Hasan Fizal, Advocate, S.R.No.40577
+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.41045
+1cc to the Government Pleader, S.R.No.41415

W.P.No.3168 of 2018

CS/10/07/18

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