

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.1503 of 2010

And

M.P.No. 2 of 2010

Paavai Engineering College,
Represented by its Chairman,
V.Natrajan,
NH-7,Pachal,
Namakkal Taluk and District

... Petitioner

Versus

1. The State of Tamil Nadu,
Represented by Secretary to Government,
Higher Education Department,
Fort St George,
Chennai-600 009.
2. The Principal Secretary and Commissioner
Directorate of Technical Education
Guindy
Chennai - 600 025.
3. The District Collector
Namakkal District,
Namakkal.
4. The Superintendent of Police
Namakkal District
Namakkal.
5. The Inspector of Police
Puduchatiram Police Station
Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Certiorari, calling for the records comprised in G.O (Ms)

No.366, Higher Education (J2) Department dated 13.10.2009, on the file of the 1st respondent, quash the same.

For Petitioner : Mr. R.Bharanidharan
For Respondents: Mr. K.Karthikeyan
Government Advocate

O R D E R

This Writ Petition has been filed by the petitioner seeking to issue a Writ of Certiorari, calling for the records comprised in G.O (Ms) No.366, Higher Education (J2) Department dated 13.10.2009, on the file of the 1st respondent and to quash the same.

2. The first respondent has authorized the Principal Secretary and Commissioner of Technical Education to consider the sanction for prosecution of the management of Paavai Engineering College, Namakkal District, for offences under section 11 of Tamilnadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act 1992.

3. In the affidavit filed in support of the Writ Petition, the petitioner has stated that the educational agency, namely, Paavai Educational Trust, Rasipuram, which is the public and charitable trust, has established several Institutions. It is further stated that Paavai Engineering College and Paavai College of Engineering are two different colleges run by the same management and that, the students of Paavai College of Engineering were instigated by some people to give false complaint alleging collection of higher fee than the fee fixed by the Fee Fixation committee.

4. It is the case of petitioner that on the basis of the complaint made by the students of Paavai College of Engineering, the first respondent has passed the impugned order directing the second respondent to take action against Paavai Engineering College, which is not permissible in law.

5. The learned Government Advocate on instructions submitted that the sanction was based on an enquiry and pursuant to G.O.(MS).No.366, Higher Education (J2) Department, dated 13.10.2009, a criminal case has been lodged against the Paavai College of Engineering and the First Information Report has been registered against the Paavai College of Engineering in Cr.No. 579 of 2009 for offences under Sections 3, 4 (2)(1) read with Section 7 of the Tamil Nadu Education Institutions (Prohibition of Collection of Capitation Fee) Act 1992 and Sections 467 and 506(ii) of IPC.

6. The First Information Report would clearly indicate that the complaint was only against Paavai College of Engineering. Therefore, the sanction for prosecution was only against Paavai College of Engineering and not Paavai Engineering College, which is the petitioner herein. Even though there is reference to Paavai Engineering College, the case has been registered only against Paavai College of Engineering.

7. Hence, this Court is unable to see any ground in resisting the action that has been initiated against Paavai College Engineering. Even accepting the contention of the petitioner that there were complaints against the Institution, namely, Paavai College of Engineering, the Government orders have been properly construed and the complaint has been lodged only against the Institution, against which the criminal case has also been registered under Sections 3, 4 (2)(1) read with Section 7 of the Tamil Nadu Education Institutions (Prohibition of Collection of Capitation Fee) Act 1992 and Sections 467 and 506(ii) of IPC. This Court find no merits in this Writ Petition.

8. Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
The State of Tamil Nadu,
Higher Education Department,
Fort St George,
Chennai-600 009.
2. The Principal Secretary and Commissioner
Directorate of Technical Education
Guindy
Chennai - 600 025.
3. The District Collector
Namakkal District,
Namakkal.

4. The Superintendent of Police
Namakkal District
Namakkal.

5. The Inspector of Police
Puduchatiram Police Station
Namakkal District.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.56802

+1cc to the Government Pleader, S.R.No.56844

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MR (CO)
GSP (30/10/2018)



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