

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2018

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.25628 of 2017

and

W.M.P.Nos.27018 and 27019 of 2017

The Principal and Secretary,
Madras Christian College (Authonomous),
Tambaram East,
Chennai-45.

... Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Department of Higher Education,
Fort St.George,
Chennai - 600 009.
2. The Director of Collegiate Education,
College Road, Chennai-6.
3. The Joint Director of Collegiate Education,
Chennai Region, Saidapet, Chennai-15.
4. The Madras University
rep. by its Registrar,
Chepauk, Chennai-5.
5. The University Grants Commission
rep. by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order issued by the 1st respondent State Government in G.O.(D) No. 142, Higher Education (E1) Department, dated 20.5.2009 issued by the 1st respondent State Government, quash the same in so far as it restricts the status of the petitioner college as a Christian Minority Educational Institution to a limited period of 5 years from 2007-2008 to 2011-2012.

For Petitioner : Ms.H.Mary Sowmirexi

For Respondents : Mrs.V.Annalakshmi,
Government Advocate for R1 to 3
Mr.P.R.Gopinathan for R5

Mr.Stalin Abhimanyu for R4

O R D E R

This Writ Petition is filed challenging the impugned order issued by the 1st respondent State Government in G.O.(D) No. 142, Higher Education (E1) Department, dated 20.5.2009 by which the minority status granted earlier to the petitioner institution was extended for a limited period of five years from 2007-2008 to 2011-2012.

2. Heard the learned Counsel on either side.

3. This Court has elaborately considered the issue in a connected Writ Petition in W.P.No.21057 of 2017 by order dated 16.8.2017 wherein this Court has held as follows:

'3. The case of the petitioner is as follows:

The petitioner College was established in the year 2009 by the Congregation of the Salesians of Don Bosco, which is a Recognised Religious Minority Educational Institution in terms of Article 30(1) of the Constitution of India. The said Congregation was recognised as a religious minority by the order made by this Court in W.P.No.827 of 1975 dated 24.09.1976. The Government of Tamil Nadu also recognised the Institution under the said Congregation as minority by proceedings of the Director of School Education dated 20.11.1976. The Society decided to establish a Polytechnic College in order to provide technical education to the poor youth of Kanchipuram Region. The State Government granted No Objection Certificate for establishing the College vide G.O.Ms.No.265, Higher Education (B2) Department dated 29.07.2009. Accordingly, the College was established in the year 2009 with the approval of the 3rd respondent. The 2nd respondent gave affiliation through proceedings dated 24.08.2009. Though the Government had already recognised the said Congregation and numerous other Institutions under it as minority, due to insistence of the respondents to obtain a separate order for the present institution recognising it as minority, the petitioner applied for the same before the 1st respondent Government, which in turn, passed the

present G.O.Ms.No.227 dated 29.11.2013 granting minority status, however, restricting it for a period of five years alone. Therefore, such restriction of the minority status only for a period of five years without giving any reason is unsustainable, since the minority status granted, cannot be restricted for a limited period.

4. Learned counsel appearing for the petitioner, after reiterating the above contentions of the petitioner, invited this Court's attention to the order passed by the Division Bench of this Court reported in 2013(8) MLJ 509 (Secretary, Jeyaraj Annapackiam College v. State of Tamil Nadu) and another order passed in W.P.No.14123 of 2012 dated 17.03.2015 in support of the contention that minority status having been chosen to be granted, cannot be restricted for a limited period.

5. Learned Special Government Pleader though fairly admitted the position that minority status cannot be granted for a limited period as held by this Court in various decisions, has however submitted that it is open to the respondent/ Government to revisit the issue as and when necessity arises, if there is change of Constitution of the Educational Agency.

6. It is seen that the petitioner institution is established by the said Congregation, namely Salesian of Don Bosco, which is also recognised as a religious minority. It is also seen that the 1st respondent Government through the present impugned order has, in fact, chosen to grant such minority status to the petitioner Institution and therefore, there is no doubt about the satisfaction of the 1st respondent Government in granting such minority status to the petitioner Institution. However, the question is with regard to the GRANT OF limited extent of such status for a period of five years only. It is well settled by the various decisions of this Court that a minority status, once chosen to be granted, cannot be restricted for a limited period. Therefore, the present impugned Government Order, only insofar as restricting the minority status for a period of five years, cannot be sustained. At the same time, the Government is at liberty to revisit the issue as and when necessity arises, based on any information received with regard to the change of Constitution of the Educational Agency. The above decisions relied on by the learned counsel for the petitioner are also supporting the case

of the petitioner that minority status cannot be restricted for a limited period.

7. Considering all the facts and circumstances, this writ petition is allowed and the impugned Government Order insofar as it restricts the minority status of the petitioner's college for a limited period of five years alone is set aside. In other words, the minority status granted by the 1st respondent through the impugned Government Order stands without any restriction on the period of enjoyment of such status. No costs. Consequently, connected miscellaneous petitions are closed."

4. Following the same, the present writ petition is allowed and the impugned Government Order insofar as it restricts the minority status of the petitioner's college for a limited period of five years alone is set aside. In other words, the minority status granted by the 1st respondent through the impugned Government Order stands without any restriction on the period of enjoyment of such status. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai - 600 009.
2. The Director of Collegiate Education,
College Road, Chennai-6.
3. The Joint Director of Collegiate Education,
Chennai Region, Saidapet, Chennai-15.
4. The Registrar,
Madras University,
Chepauk, Chennai-5.

5. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110 002

+1cc to M/s.Issac Chambers, Advocate Sr.No.73788
+1cc to The Government Pleader, Sr.No.73944
+1cc to Mr.P.R.Gopinathan, Advocate Sr.No.73589
+1cc to Mr.Stalin Abhimanyu, Advocate Sr.No.72979

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CSL/12.11.2018



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