



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2018

WEB COPY

CORAM:

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI**

**W.A. (MD) .No.242 of 2018
and
C.M.P. (MD) Nos.1395 to 1397 of 2018**

Dr.J.Joel
The Principal,
CSI Jayaraj Annapackiam College,
Nallur-627 853
Tirunelveli District.

... Appellant / Petitioner

Vs.

- 1.The Director of Collegiate Education,
College Road,
Chennai-600 006.
- 2.The Joint Director of Collegiate Education
Tirunelveli Region,
Tirunelveli-627 002.
- 3.The Manonmaniam Sundaranar University,
Rep by its Registrar, Abhisekapatti,
Tirunelveli-627 012.
- 4.The Moderator,
The Church of South India,
The SYNOD Secretariat,
No.5, Whites Road, Royapettah,
Chennai-600 014.
- 5.The Rt.Rev.Bishop,
CSI Diocese of Tirunelveli,
The Chairman TDTA
The Manager and the General Secretary,
TDTA Colleges, Bishopstowe,
16, North Highground Road,
Palayamkottai-627 002,
Tirunelveli District.



6.The Secretary and Correspondent,
CSI Jayaraj Annapackiam College,
Nallur-627 853, Tirunelveli District.

7.S.P.D.Nelson,
The Secretary and Correspondent,
CSI Jayaraj Annapackiam College,
Nallur-627 853,
Tirunelveli District.

8.The Superintendent of Police,
Tirunelveli District at Tirunelveli.

9.Dr.R.Peter Perinbaraja ... Respondents / Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters patent, against the order of this Court dated 10.01.2018 in W.P.(MD). No.11130 of 2017.

Prayer in WP(MD). 11130/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling for the records relating to the impugned proceedings issued by the 7th respondent Secretary and Correspondent, CSI Jayaraj Annapackiam College, Nallur, Tirunelveli District vide his letter dated 07.06.2017 relieving the petitioner from the post of Principal, Quash the Same.

For Petitioner	: Mr.S.Xavier Rajini
For R1, R2 & R8	: Mr.D.Muruganantham Addl. Government Pleader
For R7	: Mr.N.Dilipkumar for Caveator
For R3	: Mr.E.Mareeskumar for M/s.Ajmal Associates
For R9	: Mr.Madasamy

O R D E R

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

By consent of both the parties, the writ appeal is taken up for final disposal at the stage of admission itself.

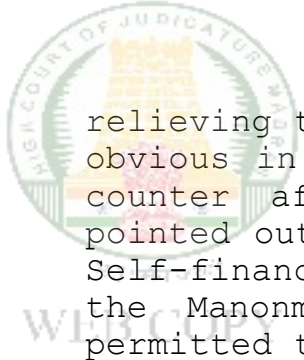
2.Heard Mr.S.Xavier Rajini, learned counsel appearing for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader, for the respondents 1, 2 and 8, Mr.N.Dilipkumar, learned counsel appearing for the seventh respondent, Mr.E.Mareeskumar for M/s.Ajmal Associates, learned counsel appearing for the third respondent and Mr.Madasamy, learned counsel appearing for the ninth respondent.



3. This appeal is directed against the order dated 10.01.2018 in W.P.(MD)No.11130 of 2017. The appellant filed the said writ petition praying for issuance of Writ of Certiorari, to quash the proceedings of the seventh respondent dated 07.06.2017, by the said proceedings, the writ petitioner, who was functioning as a Principal of C.S.I Jayaraj Annapackiam College, Nallur, Tirunelveli District, was relieved from service with effect from 08.06.2017. The challenge is mainly on the ground that the writ petitioner is entitled to continue in service till the age of 65 years and before that, the Management could not relieve the writ petitioner. Furthermore, it is submitted that no reasons have been assigned in the proceedings dated 07.06.2017 as to why he has been relieved from service. Apart from the above issues, certain subsidiary issues have also been raised in the writ petition pertaining to the right of the seventh respondent to function as a Secretary and Correspondent of the said Institution. This is with a view to state that the impugned proceedings dated 07.06.2017 could not have been issued/signed by the seventh respondent. Nevertheless, this being only a collateral issue, the writ Court did not go into the said aspect, but only recorded the submissions made on either side on the said issue. However, the point which was considered by the Court is whether the petitioner can continue till the age of 65 years ie., beyond 62 years.

4. After taking note of two decisions of the Hon'ble Supreme Court in the case of T.P.George and others v. State of Kerala and others reported in 1992 Supp (3) SCC 191 and in B.Bharat Kumar and others v. Osmania University and others reported in (2007) 11 SCC 58, the writ Court took note of the factual matrix involved in the matter referred to the decisions of the affiliated University viz., Manonmaniam Sundaranar University, circular dated 29.12.2014, the said circular was issued to the Secretaries of Self Financing Colleges affiliated to the said University. Admittedly, the College, in which the appellant was functioning is affiliated to the Manonmaniam Sundaranar University. The said circular states that the retirement age of Principal appointed in Self-financing Colleges is restricted to 62 years instead of 65 years. The respondent Management being affiliated of the Manonmaniam Sundaranar University are bound by the said circular. Therefore, no error can be attributed for relieving the writ petitioner from the post of Principal at the age of 62 years. Apart from that, the proceedings of the Manonmaniam Sundaranar University has not been questioned by the appellant, at any point of time.

5. The learned counsel for the appellant would strenuously contend that the respondents could not substitute fresh reasons to the impugned proceedings dated 07.06.2017 by way of counter affidavit and the said issue was settled, nevertheless, the Court considered the said submissions and has taken a decision on merits. Therefore, we are of the view that no useful purpose would be served by directing the respondents now to communicate the reasons for



relieving the petitioner, as it has already come on record and it is obvious in the reply affidavit filed by the writ petitioner to the counter affidavit filed by the respondents, the appellant has pointed out in paragraph No.9, the name of the three Principals of Self-financing Colleges, which are the Institutions affiliated to the Manonmanian Sundaranar University and that they have been permitted to continue beyond the age of 62 years as their retirement age is mentioned as 70 years, as per the UGC Regulation. In our considered view, this issue even assuming is found to be right and it will not defend the case of the appellant, as the appellant is bound by the terms of appointment, which has to be definitely in consonance with the circular of the University dated 29.12.2014. Unfortunately, the respondents should take note of the factual detail furnished by the appellant to examine as to whether those Self-financing Colleges, which are affiliated to the University, are entitled to continue their respective Principals upto the age of 70 years.

6.The learned counsel appearing for the respondent University, on instructions, would submit that as per the Government, the age for the post of Principal is given as 65 years. This may not be a relevant factor, because the respondent University has specifically stated in the circular, dated 29.04.2017 that the age of retirement of Principal appointed in Self-financing College is restricted to 62 years instead of 65 years. Therefore, the University should examine as to whether the circular has been followed by the Self-financing Colleges affiliated to it.

7.The learned counsel for the appellant would further submit that the impugned proceedings dated 07.06.2017 was issued only for the purpose of accommodating the ninth respondent and he lacks the requisite qualification, as he is a Post-Graduate in History and the respondent Institution does not offer either Under-Graduate or Post-Graduate degree in History and the Principal of the Institution is required to take 14 hours of class per week, which obviously cannot be done by the ninth respondent. In any event, this issue cannot be adjudicated by us, since the prayer sought for in the writ petition is to set aside the proceedings of the Management dated 07.06.2017. Therefore, we do not wish to express any opinion on the said aspect.

8.Thus for the above reasons, we find that there is no error in the order passed by the learned Single Judge. Thus the writ appeal fails and the same is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/



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

2.The Joint Director of Collegiate Education
Tirunelveli Region,
Tirunelveli-627 002.

3.The Superintendent of Police,
Tirunelveli District at Tirunelveli.

+1cc to M/S.K.RAVINDRA CHERLESS, Advocate SR.No.48114.
+1cc to M/S.N.DILIP KUMAR, Advocate SR.No.48317.
+2cc to M/S.N.MADASAMY, Advocate SR.No.48372.
+1cc to M/S.S.XAVIER RAJINI, Advocate SR.No.48814.
+1cc to Special Government Pleader in SR.No.48823.

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mrn/Ns
SDS/SV:MMS/SAR 4/26.02.2018/5P/10C