



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARANW.P. (MD) No.11828 of 2018 andW.M.P. (MD) No.10765 of 2018

WEB COPY

Tamilvel Uma Maheshwarar Karanthai Arts College,
Rep. by its President,
N.Kaliyamoorthy,
Karanthai, Thanjore.

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Education Department,
Secretariat, Chennai-9.

2.The Director of College Education,
E.V.K.Sambath Maligai,
College Road, Chennai.

3.The Regional Joint Director of Collegiate Education,
Race Course Road,
Jamal Mohamed College Campus,
Trichy-20.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to constitute a Tribunal as enumerated under the Tamil Nadu Private College (Regulation) Act, 1973, forthwith.

For Petitioner : Mr.D.Selvanayagam

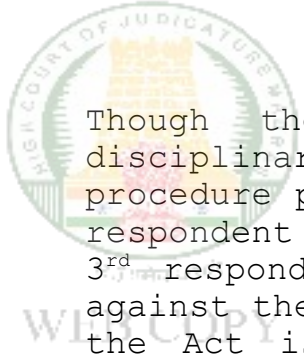
For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader**O R D E R**

This writ petition has been filed, seeking a direction to the respondents to constitute a Tribunal, as enumerated under the Tamil Nadu Private College (Regulation) Act, 1973 forthwith.

2. Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents. By consent on either side, this writ petition is taken up for final disposal at the admission stage itself.

Brief Facts:

3. The petitioner-College (hereinafter referred to as "the College") is an aided recognized private college recognized under the Tamil Nadu Recognized Private Colleges (Regulation) Act, 1973 (in short "the Act") and the rules and regulations thereunder.



Though the Act empowers the college Committee to initiate disciplinary action against its employees, in absence of any clear procedure prescribed in the Act, the decision to be taken by the 3rd respondent thereafter attains finality, thereby leaving way to the 3rd respondent to exercise his discretion in an arbitrary manner against the decision of the Committee. The appellate authority under the Act is the 2nd respondent and the Act does not evolve any procedure to decide the appeal, the said provision has also been according to the whims and fancies of the appellate authority.

3.1. It is submitted that as per Section 38 of the Act, the Government should constitute a Tribunal by appointing a Presiding Officer equivalent to the rank of Principal Sub-Judge and till now, no Tribunal has been constituted. It is the grievance of the College that though the College Committee had decided to remove two delinquent Professors for their misconduct, the respondents 2 and 3, by way of a non speaking order, set aside the decision of the Committee and the learned Principal District Judge declined even to number the Civil Revision Petition filed against the order of the 2nd respondent, questioning his own jurisdiction to decide the matter, thereby leaving the College remediless.

3.2. The College had submitted a detailed representation to the respondents dated 29.05.2018, insisting upon them to constitute a Tribunal as per the provisions of the Act and till date, no action has taken thereon to sort out the grievance of the College. Therefore, having found no other efficacious remedy, the College is before this Court with the above prayer.

4. The learned Special Government Pleader appearing for the respondents would submit that the appropriate authority to decide the issue is the first respondent and if a reasonable time is granted to the first respondent, the representation of the petitioner dated 29.05.2018 will be considered and appropriate orders be passed thereon.

5. Considering the facts and circumstances of the case, the first respondent is directed to consider the representation of the petitioner dated 29.05.2018 and pass necessary orders on the same on merits and in accordance with law within a period of two week from the date of receipt of a copy of this order, bearing in mind the provisions of Section 38 of the Act.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/



To:

1. The Secretary to the Government,
State of Tamil Nadu,
Education Department,
Secretariat, Chennai-9.
2. The Director of College Education,
E.V.K.Sambath Maligai,
College Road, Chennai.
3. The Regional Joint Director of Collegiate Education,
Race Course Road,
Jamal Mohamed College Campus,
Trichy-20.

+1CC to Mr.D.Selvanayagam Advocate in SR.No.66505.

+1CC to Special Government Pleader in SR. No.66534.

AR

DS/SV/SAR-2 :11.07.2018: 3P/6C

W.P. (MD) No.11828 of 2018
01.06.2018