



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.05.2018

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.(MD)No.11618 of 2018 and
WMP(MD)No.10586 of 2018

Yadavar Kalvi Nithi,
Rep. by its General Secretary,
K.P.Navaneetha Krishnan,
Thirupalai,
Madurai 625 014.

.. 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,
Nungambakkam,
Chennai 600 006.

3.The Regional Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Sellur,
Madurai 625 002.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the 2nd respondent, to accord approval to K.P.Navaneethakrishnan as the Secretary of Yadava College, Madurai run by the petitioner society in light of her proceedings in lr. No.17265/G4/2011 dated 08.01.2018 and the proceedings of the 1st respondent in Lr.No.12272/D2/2011 dated 02.03.2018 and consequently drop the proposal to appoint a special officer for the Yadava College, Madurai run by the Petitioner society by withdrawing the notice dated 29.11.2006 issued by the 1st respondent as recommended by the proceedings of the 2nd Respondent in lr. No.17265/G4/2011 dated 04.04.2018, within the time stipulated by this Court.

For Petitioner

: Mr.Mahaboob Athiff

for M/s.Ajmal Associates

ORDER

This writ petition has been filed by the petitioner seeking direction to the 2nd respondent herein to approve K.P.Navaneetha Krishnan as Secretary of Yadava College in the light of the proceedings issued by the 2nd respondent herein in Na.Ka.No.17285/G4/2011 dated 08.01.2018 and 1st respondent's Letter No.12272/D2/2011-34 dated 02.03.2018 and consequently drop appointment of special officer in the light of the recommendations made by the 2nd respondent herein in Na.Ka.No.17265/G4/2011 dated 04.04.2018 within the time stipulated by this Hon'ble Court.

2.With consent of the parties the main writ petition itself is taken for final hearing.

3.I heard Mr.Mahaboob Athiff for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents and perused the entire materials available on record.

4.The learned counsel appearing for the petitioner submits that the petitioner society namely Yadavar Kalvi Nithi is a registered society running Yadava College at Madurai, which is aided by the State Government.

5.The further case of the petitioner is that after the death of one A.R.Chandran, K.P.Navaneetha Krishnan was elected as Secretary of the college and society and the same was approved by the competent authorities and confirmed by this Court in WP(MD) No.4797 of 2011.

6.The further case of the petitioner is that when the proposal for approval of secretary for the next triennium was pending, the 2nd respondent herein without any notice invoked G.O.Ms.No.1021 Education Department dated 02.09.1985 ordered direct payment to the college, which resulted in series of writ petitions before this Court and ultimately this Court, by Common Order dated 05.03.2013 directed the 1st respondent herein to take steps for appointment of Special Officer by following due process of law subject to the outcome of the scheme suit pending before the civil court and further held that the 1st respondent shall independently consider the issues and shall not be solely guided by observations in the order or scurrilous attacks made on individuals without any proof.

7.The further case of the petitioner is that the petitioner preferred letter patent appeals in WA(MD)Nos.381 to 385 of 2013 against the common order dated 05.03.2013 and the Hon'ble Division Bench by order dated 10.07.2013 directed the 1st respondent not to precipitate the matter any further by passing any order or sending any notice until further orders.



8.The further case of the petitioner is that when the above writ appeals were pending, the 1st respondent herein issued notice dated 29.11.2016 under Section 14(A) of the Act and hence, the petitioner filed Contempt Application(MD)No.1627 of 2016.

9.The further case of the petitioner is that when the matter stood thus, petitioner was again elected as Secretary of the College for the term 2017 to 2020 and submitted application seeking approval through the 3rd respondent herein and also submitted representation dated 24.11.2017 seeking to drop all further action under Section 14 (A) of the Act and to withdraw the order of direct payment. Thereafter, the 3rd respondent herein through proceedings dated 07.12.2017 recommended to the said proposal for approval to the 2nd respondent herein. The 2nd respondent herein by considering the entire issue forwarded the proposal to the 1st respondent herein through proceedings in Na.Ka.No.17285/G4/2011 dated 08.01.2018 requested appropriate orders for approving the approval. The 1st respondent herein after elaborate considerations, vide Letter No.12272/D2/2011-34 dated 02.03.2018 directed the 2nd respondent herein to pass necessary orders for revoking G.O.Ms.No.1021 Education Department dated 02.09.2012 and for conferring approval for secretaryship. Thereafter, 2nd respondent in Na.Ka.No.17265/G4/2011 dated 04.04.2018 submitted a report to the 1st respondent under Section 14(A) of the Act seeking to drop all further action for appointment of Special Officer to the college.

10.The further case of the petitioner is that in view of the positive recommendations made by the respondents for approval for secretaryship, with earnest and legitimate intention the petitioner withdrew the pending writ appeals and contempt petitions on 03.04.2018. As no orders passed so far based on the recommendations, the petitioner has approached this Court by filing the present writ petition.

11.The further case of the petitioner is that as there was no proper management in the college for the past five years, the development and discipline in the college is very much affected and now the respondents have positively considered the petitioner's request as stated above seeks for issuance of writ of Mandamus.

12.The learned Special Government Pleader appearing for the respondents submitted that this Court by Common Order dated 05.03.2013 had already directed the 1st respondent herein to take steps for appointment of Special Officer by following due process of law. As writ appeals were pending against the above order, the 1st respondent was not able to pass final orders for the past 5 years.

13.The learned Special Government Pleader appearing for the respondents further submitted that the above writ appeals are withdrawn recently and now there is no impediment for passing orders and when the proposal for approval is pending consideration before the respondents; the petitioner has hurriedly approached this

Hon'ble Court. It is an admitted fact that the 2nd respondent has also recommended to the 1st respondent to drop the proposal of appointment of Special officer.

14.No doubt this Hon'ble Court had already by Common Order dated 05.03.2013 directed the 1st respondent herein to independently consider issue for appointment of Special Officer by following due process of law. However, the said order was not implemented so far due to the pendency of the writ appeals and interim order. It is seen from the records that when the above issue is pending before this Hon'ble Court, the petitioner has approached the respondents herein for approval of secretaryship and to drop all further action under Section 14(A) of the Act. The said proposal was also forwarded to the 2nd respondent herein by the 3rd respondent herein vide proceedings dated 07.12.2017 with appropriate recommendations.

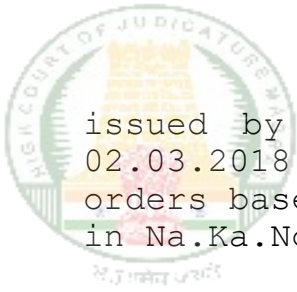
15.On perusal of the typed set of papers, I find that the 2nd respondent herein in turn forwarded the proposal to the 1st respondent herein through proceedings in Na.Ka.No.17285/G4/2011 dated 08.01.2018. Thereafter, the 1st respondent herein issued Letter No.12272/D2/2011-34 dated 02.03.2018 specifically directing the 2nd respondent herein to pass necessary orders for revoking G.O.Ms.No.1021 Education Department dated 02.09.1985 and for conferring approval for secretaryship. Even though, there is no impediment for 2nd respondent for passing orders on the proposal as directed by the 1st respondent, till date, no orders passed. On the other hand, 2nd respondent submitted a report dated 04.04.2018 to the 1st respondent under Section 14(A) of the Act seeking to drop all further action for appointment of Special Officer to the college. A cursory reading of the above orders makes it abundantly clear that the respondents have positively considered the petitioner for approval of Secretaryship of Yadava College and have issued necessary directions to the 2nd respondent herein to pass orders. Further, it is also evident from the above proceedings that the Government, after independently considering the issue seems to not interested in appointing Special Officer have issued the above directions to the 2nd respondent herein. Therefore, there is no justification on the part of the respondents to keep the proposal pending for long without passing any final orders, even after the withdrawal of the writ appeals, affecting the development and discipline of the college.

16.In view of the above, in my considered view, the petitioner is entitled to the relief sought for in the writ petition. Therefore, the writ petition is liable to be allowed.

17.In the result:

(a) this writ petition is allowed;

(b) the 2nd respondent is directed to pass appropriate orders approving Secretaryship of Yadava College as per the proceedings



issued by the 1st respondent in Letter No.12272/D2/2011-34 dated 02.03.2018 and the 1st respondent herein is directed to pass suitable orders based on the recommendations made by the 2nd respondent herein in Na.Ka.No.17265/G4/2011 dated 04.04.2018;

(c) the said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar/
Vacation Officer.

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai 600 009.
- 2.The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai 600 006.
- 3.The Regional Joint Director of Collegiate Education,
Madurai Region, Palam Station Road,
Sellur,
Madurai 625 002.

+1CC to M/s.Ajmal Associates, SR.No. 66332

W.P. (MD) No.11618 of 2018
and
WMP (MD) No.10586 of 2018
30.05.2018

VSV
AM/KKR/SAR 4/01.06.2018/5P/5C