

WMP.No.27653 of 2019 in W.P.No.23161 of 2016

T.RAJA, J.

This Court has passed an order in W.P.No.23161/2016 on 03.01.2019.

The relevant portion is given hereunder:

"4. Since the learned Counsel for the petitioner and the learned Counsel for the respondents 2 to 17 jointly made a statement that if the respondent University prepares the voters' list on the basis of the bye-laws read with O.M.No.2/5/1994-JCA dated 28.7.94 under CCS (RSA) Rules, which mandate the holding of fresh elections within a period of three months of the expiry of the term, this Court, without going into the merits of the matter, recording the statement made by the learned counsel for the respondent University that the new Vice Chancellor will ensure to hold fresh elections in the manner known to law, directs the first respondent University to hold the fresh elections to elect the office bearers of the petitioner association in the manner known to law. With the direction, the writ petition stands disposed of. Consequently, W.M.P.Nos.19861 and 19862 of 2016 are closed. No costs."

While so, the Pondicherry University has come with this application seeking clarification to clarify the above order of this Court to the effect that the petitioner and the respondents 2 to 17 in the writ petition shall have to submit a Common Members/Voters' List to the University enabling the University to publish the final voters' list on the basis of the bye-laws read with

OM.No.2/5/1994-JCA dated 28.07.1994 under CCS (RSA) Rules and to hold fresh elections in the manner known to law within a stipulated time from the date of receipt of such common Members/Voters' list of Pondicherry University Non Teaching Staff Welfare Association (PUNTSWA).

2. Mr.M.Ravi, learned Counsel appearing for the Clarification Petitioner submitted that when the University is a competent authority to recognize the association, now election process is going to be initiated and finally, the election will be held for electing the office bearers in terms of the bye laws and also in terms of the CCS Rules. Therefore, before the initiation of the election process, the Pondicherry University has thought it fit to come to this Court seeking clarification that the part time employees and contract employees were not be admitted as voters. Extending his argument, the learned Counsel also submitted that even the NMRs also need not be included as eligible voters. In support of his submission, he has referred to various documents.

3. In reply to the said submission of the learned Counsel for the Petitioner in the Clarification Petition, Mr.Balan Haridas, learned Counsel for the respondents 2 to 17 requested this Court to reaffirm the order passed by this Court on 03.01.2019 as the said order has become final.

4. Mr.V.Ajoykhose, the learned Counsel for the 1st respondent/writ petitioner joining hands with Mr.Balan Haridas, the learned Counsel for the respondents 2 to 17 reinstated that when the order passed by this Court has not been put to challenge for modification, the present petitioner in the guise of seeking clarification cannot seek to modify the order.

5. I also find some force on the said submission of the learned Counsel for the 1st respondent/writ petitioner. The reason being that when this Court after considering the whole claims of both parties finding that there has been consensus among the parties based on which an order dated 03.01.2019 has been passed which was extracted as above, this Court reaffirming the order makes only one clarification that the part time employees and contract employees, cannot be accepted as voters as their services are yet to be regularised.

6. Intervening at this stage, the learned Counsel appearing for the petitioner University submitted that University has filed a detailed counter affidavit taking a stand that the Pondicherry University is an autonomous body and administered by its Acts, Statutes and ordinances and the Administrative Ordinance neither incorporates the CCS (RSA) Rules nor a separate ordinance for

recognition of service association. Therefore, there was no any legality in allowing the respondents 2 and 3 therein to take the election beyond the period of two years.

7. Mr.Ajay Khose, learned Counsel for the 1st respondent/writ petitioner stated that on the basis of the counter affidavit filed by the University, the Writ Petitioner cannot advance or improve their argument in the contempt petition since the bye laws cannot have any statutory effect.

8. But this Court having passed a consent order is not able to find any merit to say anything more except that the contract employees and the part time employees are not eligible to become voters. Even it may be mentioned here that the O.M.No.2/5/94-JCA dated 28.7.1994 also clearly gives the procedure for holding election which is given here under:

"(ii) Procedure for holding elections

Constitution of an Association must lay down procedure for conduct of elections to elect office bearers/members of Executive Committee. Such elections should be conducted by Association themselves. Government Department should not in any manner associate with the process. However, if so requested by the association, an official may be deputed to function as an observer having nothing to do with the actual conduct of elections."

9. At this stage, Mr.Ajoykhose, learned Counsel for the 1st respondent and Mr.Balan Haridas, learned Counsel for the respondents 2 to 17 jointly made a request to this Court to appoint a Retired District Judge to hold the elections as per the order passed by this Court in W.P.No.23161 of 2016 dated 03.01.2019. The learned Counsel for the University has also no objection for the same.

10. In view thereof, this Court hereby appoints Mr.R.Sadayandi (Retired District Judge) as Election Officer and 3 months time is given to him to complete the election and his remuneration is fixed as Rs.1,50,000/- p.m.

11. The Clarification Petition is ordered accordingly.

27.11.2019

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Note: Issue copy on 26.12.2019

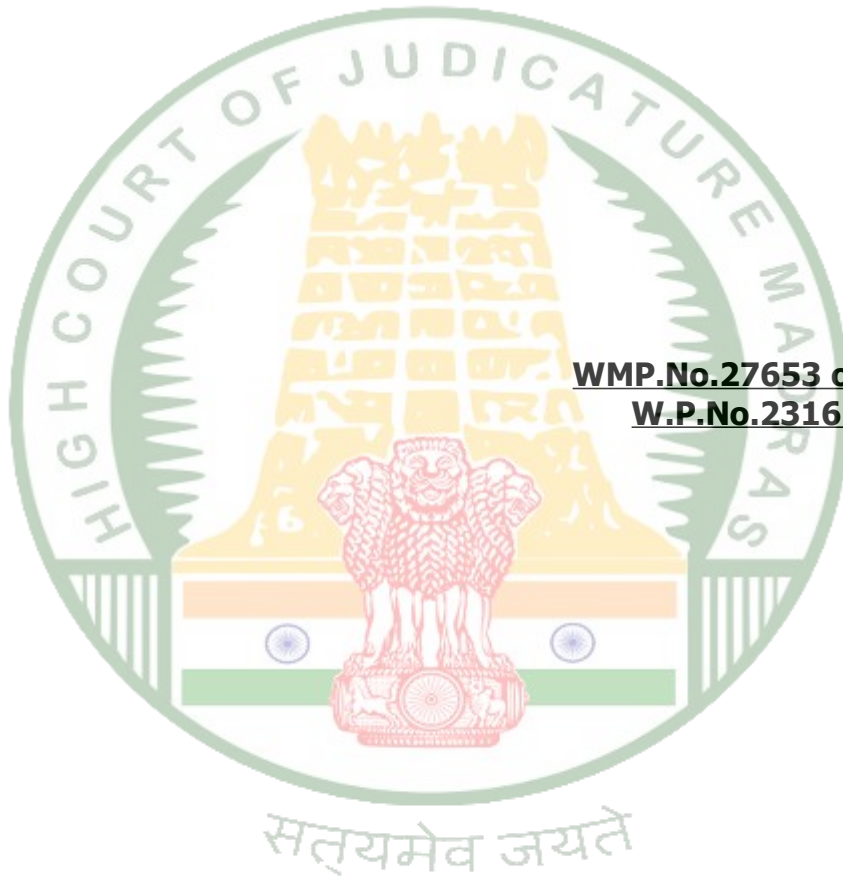
Copy to:

Mr.R.Sadayandi,

Retired District Judge

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