

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.08.2019

Pronounced on : 21-10-2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Appeal Nos. 1584, 1592, 1594, 2722, 2723 and 2724 of 2019

WA No. 1584 of 2019

Dr. N. Shettu
Principal
Pachaiyappa's College
Chennai - 600 030

.. Appellant/7th Respondent
Versus

1. R. Natarajan
2. M. Kolangiappan
3. T. Sekar
4. S. Saravanan
5. State of Tamil Nadu
represented by its Principal Secretary to Government
Higher Education Department
Fort St. George
Chennai - 600 009
6. The Vice Chancellor
University of Madras
Chepauk, Chennai - 600 005
7. Pachiyappa's Trust Board
represented by its Member Secretary
Pachiyappa's Trust Board Office
Pachiyappa's College
Chennai - 600 030
8. Director of College at Education
Office of the Director of Collegiate Education
9th Floor, E.V.K. Sampath Buildings
College Road
Chennai - 600 006

9. The Selection Committee
represented by its Chairman
Pachiyappa's Trust Board Office
Pachiyappa's College
Chennai - 600 030

10. The College Committee
represented by its Secretary
Pachiyappa's Trust Board Office
Pachiyappa's College
Chennai - 600 030

... Respondents

Appeal filed under Clause 15 of The Letters Patent against the Order dated 24.04.2019 passed in WP No. 31076 of 2018 on the file of this Court.

WA No.1592 of 2019:

N.SHETTU

- Petitioner /7th Respondent

Vs

- 1 K.S.SRIDHAR
- 2 G.KARUNAMOORTHY
- 3 STATE OF TAMIL NADU
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT FORT ST.
GEORGE CHENNAI - 600009 FORT ST.GEORGE
CHENNAI - 600009
- 4 THE VICE CHANCELLOR,
UNIVERSITY OF MADRAS CHEPAUK CHENNAI -
60005
- 5 PACHİYAPPAS TRUST BOARD,
REP BY ITS MEMBER SECRETARY PACHİYAPPAS
TRUST BOARD OFFICE PACHİYAPPAS COLLEGE
CHENNAI- 600030
- 6 DIRECTOR OF COLLEGEIATE EDUCATION,
OFFICE OF THE DIRECTOR OF COLLEGIATE
EDUCATION, 9TH FLOOR, E.V.K.SAMPATH
BUILDINGS, COLLEGE ROAD, CHENNAI - 600006

7 THE SELECTION COMMITTEE,
REP BY ITS CHAIRMAN PACHİYAPPAS TRUST
BOARD OFFICE PACHİYAPPAS COLLEGE,
CHENNAI -600030 - Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 24/04/2019 passed in WP.No.12126/2018 on the file of this Court.

W.A.No.1594 OF 2019:

1. N.SHETTU - PETITIONER/5th Respondent

- Vs -

1 R.NANTHINI

2 STATE OF TAMILNADU,
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
HIGHER SECONDARY EDUCATION DEPARTMENT, FORT
ST.GEORGE CHENNAI-9

-2-

3 THE UNIVERSITY OF MADRAS,
REP BY ITS REGISTRAR, CHEPAUK CHENNAI-6

4 THE DIRECTOR OF COLLEGIATE,
EDUCATION, COLLEGE ROAD, CHENNAI-6.

5 THE PACHİYAPPAS TRUST BOARD,
AND MEMBER SECRETARY COLLEGE COMMITTEE OF
PACHİYAPPAS COLLEGE CHENNAI 600030 REP BY
HONBLE MR.JUSTICE R.SHANMUGAM INTERIM
ADMINSTRATOR PACHİYAPPAS TRUST BOARD OFFICER,
PACHİYAPPAS COLLEGE,
CHENNIA 600 030. - RESPONDENTS/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 24-04-2019 passed in WP No.27095/2018

W.A.No.2722 of 2019:

V. KALAIVANI - PETITIONER /Appellant

- Vs -

1. K.S.SIRDHAR
2. G.KARUNAMOORTHY
3. STATE OF TAMIL NADU,
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER SECONDARY EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 600 009.
4. THE VICE CHANCELLOR,
UNIVERSITY OF MADRAS,
CHEPAUK, CHENNAI - 600 005.
5. PACHIYAPPAS TRUST BOARD,
REP BY ITS MEMBER SECRETARY PACHIYAPPAS
TRUST BOARD OFFICE PACHIYAPPAS COLLEGE
CHENNAI- 600030
6. DIRECTOR OF COLLEGIATE EDUCATION,
OFFICE OF THE DIRECTOR OF COLLEGIATE,
EDUCATION, 9TH FLOOR, E.V.K.SAMPATH
BUILDINGS, COLLEGE ROAD, CHENNAI - 600006
-3-
7. THE SELECTION COMMITTEE,
REP BY ITS CHAIRMAN PACHIYAPPAS TRUST
BOARD OFFICE PACHIYAPPAS COLLEGE
CHENNAI -600030 ...Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the Order dated 24.04.2019 passed in WP No.12127 of 2018 on the file of this Court.

W.A.No.2723 of 2019:

M.SIVARAJAN - PETITIONER/3rd party
- Vs -

1. K.S.SIRDHAR
2. G.KARUNAMOORTHY
3. STATE OF TAMIL NADU,
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER SECONDARY EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 600 009.
4. THE VICE CHANCELLOR,
UNIVERSITY OF MADRAS,
CHEPAUK, CHENNAI - 600 005.

- 5 PACHİYAPPAS TRUST BOARD,
REP BY ITS MEMBER SECRETARY PACHİYAPPAS
TRUST BOARD OFFICE PACHİYAPPAS COLLEGE
CHENNAI- 600030
- 6 DIRECTOR OF COLLEGIATE EDUCATION,
OFFICE OF THE DIRECTOR OF COLLEGIATE,
EDUCATION, 9TH FLOOR, E.V.K.SAMPATH
BUILDINGS, COLLEGE ROAD, CHENNAI - 600006
7. THE SELECTION COMMITTEE,
REP BY ITS CHAIRMAN PACHİYAPPAS TRUST
BOARD OFFICE PACHİYAPPAS COLLEGE
CHENNAI -600030

Appeal filed under Clause 15 of the Letters Patent against the Order dated 24.04.2019 passed in WP No.12129 of 2018 on the file of this Court.

W.A.No.2724 of 2019:

M.GNANATHAI - PETITIONER /Appellant

- Vs -

1. K.S.SIRDHAR
2. G.KARUNAMOORTHY
3. STATE OF TAMIL NADU,
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER SECONDARY EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 600 009.
4. THE VICE CHANCELLOR,
UNIVERSITY OF MADRAS,
CHEPAUK, CHENNAI - 600 005.
- 5 PACHİYAPPAS TRUST BOARD,
REP BY ITS MEMBER SECRETARY PACHİYAPPAS
TRUST BOARD OFFICE PACHİYAPPAS COLLEGE
CHENNAI- 600030
- 6 DIRECTOR OF COLLEGIATE EDUCATION,
OFFICE OF THE DIRECTOR OF COLLEGIATE,
EDUCATION, 9TH FLOOR, E.V.K.SAMPATH
BUILDINGS, COLLEGE ROAD, CHENNAI - 600006

7. THE SELECTION COMMITTEE,
REP BY ITS CHAIRMAN PACHIYAPPAS TRUST
BOARD OFFICE PACHIYAPPAS COLLEGE
CHENNAI -600030 ...Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the Order dated 24.04.2019 passed in WP No.12128 of 2018 on the file of this Court.

Prayer in WP No.31076 of 2018:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records in connection with the impugned circular of the 3rd Respondent dated 20-4-2018 in Proceedings RC.NO.A1/682/2018 and A1/685/2018 and quash the same and consequently direct the 3rd respondent to reconstitute the 5th respondent selection committee to issue a fresh notification in accordance with the regulation of the University grants Commission 2010 implemented by the University of Madras in Proceedings No.A-II/MPV/UGC Regulation 2010/2018/564 to the post of Principal

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COMMON Prayer in W.P.No.12126 to 12129 OF 2018:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records in connection with the impugned circular of the 3rd Respondent dated 20-4-2018 in Proceedings RC.NO.A1/682/2018 and A1/683/2018. A1/684/2018 and A1/685/2018 and quash the same as illegal arbitrary and not biniding on the petitioners and consequently direct the third respondent to issuea fresh Notification in accordance with the Regulation of the University Grants Commission, 2010, implemented by the University of Madras in proceedings No.A-II/MPV/UPC Regulation 2010/2018/564 to the Post on Principal

Prayer in W.P.No.27095 OF 2018:

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, To issue a Writ in the nature of Certiorarified Mandamus calling for the recoreds relating to the impugned proceedings of the then Member Secretary of the college committee of the Pachaiyappa s College Chennai-600030 now represented by the 4th respondent in file number Rc.No.A1/682/2010 dated 20/04/2018 and the consequential proceedings in R.C.No.A1/682/2018 dated 09/06/2018 and to QUASH the same and directing the 4th

Respondent to re-do the selection strictly in accordance with the UGC Regulation and TNPC(R) Rules 1976 within a time frame and consider the application of the Petitioner for the post of principal. (Prayer amended vide order dt 25/02/2019 made in WMP.No.2003/19 in WP.No.27095/18)

WA No. 1584 of 2019

For Appellant : Mr. Satish Parasaran, Senior Advocate
Mr. D. Prasanna

For Respondents : Mr. Ma. Gowthaman
for Mr. A. Ramesh Babu for RR2 to 4

Mr. V. Kathirvelu
Special Government Pleader for RR5 to 8

Mr. Stalin Abhimanyu for R6

Mr. Issac Mohanlal, Senior Advocate
for Mr. K.V. Sundararajan for R7

WA.No.1592/2019: Mr.N.R.Chandran, SC
for Mr.Prasanna Additional Public Prosecutor

Mr.Ma.Gowthaman for
Mr.A.Ramesh Babu-R1 &R2
Mr.Isaac Mohanlal SC for
Mr.K.V.Sundara Rajan-R5
Mr.Stalin Abhimanyu-R4

WA.NO.1594/2019: Mr.P.V.S.Giridhar for
M/s.Prasanna Additional Public Prosecutor
Mr.V.T.Gopalan SC for
M/s.B.Saraswathi-R1 & R2
Mr.Issac Mohanlal SC for
Mr.K.V.Sundararajan-R5
Mr.Stalin Abimanyu-R3

WA.NO.2722/2019: Mr.K.Sukumaran for
M/s.A.Zubaitha Banu Additional Public Prosecutor
Mr.Ma.Gowthaman for
Mr.Ramesh Babu -R1 & R2

WA.NO.2723/2019: Mr.AR.L.Sundarajan SC for
M/s.A.Zubaitha Banu Additional Public Prosecutor
Mr.Ma.Gowthaman for
Mr.A.Ramesh Babu -R1 & R2

WA.No.2724/2019:Mr.K.Sukumaran for
M/s.A.Zubaitha Banu Additional Public Prosecutor
:Mr.Ma.Gowthaman for
Mr.A.Ramesh Babu-R1 & R2

WA.NO.1584/2019:Mr.Sathish Parasaran, SC for
M/s.Prasanna D.
Mr.Ma.Gowthaman for Mr.A.Ramesh Babu R2 & R4
Mr.Isaac Mohanlal Sc for
Mr.K.V.Sundarajan -R7
Mr.V.Kathirvel Special Government Pleader
-R5 to R6

COMMON JUDGMENT

R. SUBBIAH, J

These appeals are filed questioning the correctness of the common order dated 24.04.2019 passed by the learned single Judge in Writ Petition Nos. 27095, 12126, 12127, 12128, 12129, 31076 and 31083 of 2018. By the order dated 24.04.2019, the learned single Judge, while allowing the writ petitions, issued the following directions:-

"85. This being the factum of the lis on hand, this court is inclined to pass the following orders:-

1.a) In respect of WP No. 27095 of 2018, the impugned proceedings of the then Member Secretary of the College Committee of the Pachiyappa's College, Chennai - 600 030, now represented by the fourth respondent in file number Rc.No.A1/682/2010 dated 20.04.2018 and the consequential proceedings in R.C.No.A1/682/2010 dated 09.06.2018 stand quashed.

1.b) In respect of WP Nos. 12126 to 12129 of 2018, the impugned Circular of the third respondent dated 20.04.2018 in proceedings Rc.Nos.A1/682/2018, A1/683/2018, A1/684/2018 and A1/685/2018 stand quashed.

1.c) In respect of WP Nos. 31076 and 31083 of 2018, the impugned circular of the third respondent dated 20.04.2018 in proceedings Rc Nos., A1/682/2018 and A1/685/2018 stand quashed.

2) The process of selection conducted by the Pachaiyappa's Trust Board through its Selection Committee and College Committee are declared null and void and in violation of the provisions of the Tamil Nadu Private Colleges (Regulations) Rules, 1976 and the University Grants Commission Regulations.

3) The Interim Administrator appointed by the High Court of Madras is directed to conduct a fresh selection for appointments/ promotions to the post of Principal for all the Colleges by strictly following the Statutes/Rules and the University Grants Commission (UGC) Regulations. The process of selection is directed to be concluded as expeditiously as possible and without causing any delay.

4) The Interim Administrator is directed to look into the complaints made by the writ petitioners and other members in respect of corrupt activities in the process of selection and file appropriate complaint before the Director of Vigilance and Anti-Corruption, who in turn, shall probe the issues in relation to the corrupt activities in the process of selection, with reference to the competent Educational authorities and the University and initiate all appropriate actions.

86. With the above directions, all the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

2. As against the common order dated 24.04.2019 passed by the learned single Judge in Writ Petition Nos. 27095, 12126, 12127, 12128, 12129, 31076 and 31083 of 2018, these writ appeals have been filed. W.A. Nos. 1584, 1592 and 1594 of 2019 were filed by Dr. N. Shettu, who was arrayed as one of the respondents in some of the writ petitions and was selected to the post of Principal, Pachayappas College, as against the order passed in WP Nos. 31076, 12126 and 27095 of 2018. Writ Appeal Nos. 2722, 2723 and 2724 of 2019 were filed as against the order passed in WP Nos. 12127, 12129 and 12128 of 2019 respectively. The appellants in WA Nos. 2722, 2723 and 2724 of 2019 were not parties to the writ petitions, however, as their selection to the post of Principal of the Constituent Colleges of Pachaiyappa's Trust Board was held to be invalid, they have filed Writ Appeal Nos. 2722, 2723 and 2724 of 2019 after obtaining leave of this Court.

3. The factual matrix of the case, as could be unfolded on perusal of the records, is set out in brief as follows.

4. On 20.04.2018, four notifications were issued by the Pachaiyappa's Trust Board inviting applications for filling up the post of Principal among four out of six colleges administered by it and they are (i) The Pachaiyappa's College, Chennai (ii) Chellammal College for Women, Guindy, Chennai (iii) Pachiyappa's College for Men, Kancheepuram and Pachiyappa's College for Women, Kancheepuram. In response to the notification, applications were received and they were placed before the Selection Committee constituted by the Pachaiyappa's Trust Board. The appellants in these writ appeals were selected to the post to which they submitted their respective application. The Director of Collegiate Education have also approved the appointment of the appellants herein. While so, writ petitions were filed before this Court challenging their selection and appointment on the ground that the Constituent Colleges within the administrative fold of Pachaiyappa's Trust Board has to be treated as one unit and separate selection process for the four colleges ought not to have been held. It was further contended that the selection process is vitiated inasmuch as the guidelines and/or norms framed by the University Grants Commission (UGC) has not been followed. Yet another ground of challenge is that the statutory provision contained under Section 11 (4) of The Tamil Nadu Private Colleges Regulations Act has been violated. It was also contended that the Academic Performance Indicator (API) of the candidate has not been considered before selection to the post. The learned single Judge held that the selection is vitiated for non-adherence to the statutory provision and therefore quashed the selection and appointment to the post of Principals of the constituent colleges of Pachaiyappa's College and directed the Interim Administrator to conduct a fresh selection process.

5. The Writ Petition No. 27095 of 2018 was filed by Dr. R. Nanthini challenging the appointment of Dr. N. Shettu as Principal of Pachaiyappa's College, Chennai. The other writ petitions, being Writ Petition Nos. 12126, 12127, 12128, 12129 as well as Writ Petition Nos. 31076 and 31083 of 2018, were filed before the learned single Judge challenging the selection process conducted by the Selection Committee appointed by the Pachiyappa's Trust Board and for a consequential direction to issue a fresh notification for selection and appointment to the post of Principal of Pachaiyappa's College and its constituent colleges.

6. A counter affidavit was filed in W.P. No. 27095 of 2018 by Dr. N. Shettu contending interalia that the writ petitioner Dr. R. Nanthini has participated in the selection process but could not succeed in getting selected to the post. She being an

unsuccessful candidate, cannot challenge the selection process or the outcome thereof. It was also contended that the selection committee was constituted in accordance with the UGC Regulations consisting of eminent jurist. It was further stated in the counter affidavit of Dr. N. Shettu that as he performed well and being the most meritorious candidate with reference to (i) academic qualifications (ii) research experience (iii) administrative experience and ability and (iv) interview, he was rightly selected for the post of Principal and there is no irregularity in his selection. It is also further stated in the counter affidavit that he had put in more than 17 years of experience in the Colleges affiliated to Pachaiyappa's Trust Board, including as Associate Professor with higher academic and research credentials and therefore, his selection to the post of Professor is wholly justified. As regards Rule 11 (4), it was stated in the counter that he being the person with more merit and ability, seniority could be considered only where merit and ability are approximately equal and as such, the writ petitioner - Dr. Nanthini being senior is not a ground for selecting her to the post. It is also contended by Dr. N. Shettu in the counter that his selection was on the basis of assessment of academic qualification and experience, research activities, administrative experience and interview and therefore, he prayed for dismissal of the writ petition.

7. The President of Pachaiyappa's Trust Board has filed a common counter affidavit in the writ petitions contending inter alia that the selection committee has been constituted as per UGC norms. On 23.03.2018, the Member Secretary of Pachaiyappa's Trust Board sent a letter to the Registrar, University of Madras about the need to fill up the posts of Principal of Pachaiyappa's College and on the basis of the reply letter dated 20.04.2018 of the Registrar, University of Madras, the selection committee came to be constituted. Thereafter, a circular dated 20.04.2018 was issued to the Principals of all the constituent colleges of Pachaiyappa's Trust Board and directing them to circulate the same to all the associated professors/professors to apply for the post of Principal on or before 04.05.2018. Therefore, the question of violation of UGC regulation, 2010 will not arise. In the Circular dated 20.04.2018, the qualification prescribed for the post was also indicated. It was also made clear in the Circular that as per Rule 11 (4) of Tamil Nadu Private College Regulation Rules, promotion in respect of the teaching staff shall be made on the grounds of merit and ability, seniority will be considered only if the merit and ability are approximately equal. The Board also denied the allegations of malpractices and the charge of corruption said to have taken place in selecting the Professors

for the constituent Colleges. During the selection process, the applications submitted by 8 applicants for the post of Principal of Chellammal College for women at Guindy, Chennai were scrutinised. Similarly, three persons applied for the post of Principal for Pachaiyappa's College for Women, Kancheepuram, 7 persons applied for the post of Pachaiyappa's College for Men, Kancheepuram. An interview was conducted for appointment of Principal of Pachaiyappa's College, Chennai on 07.05.2018 at 10.00 am. Similarly, an interview for appointment of Principal of Chellammal College for Women, Guindy was held on 07.05.2018 at 2.00 p.m. Likewise, an interview for appointment of Principal for Pachaiyappa's College for men was held on 08.05.2018 at 2.00 p.m. and the interview for appointment of Principal for Pachaiyappa's College for Women, Kancheepuram was held on 09.05.2018 at 10.00 am. Therefore, according to the President of Pachaiyappa's Trust Board, there is no illegality or impropriety in conducting the interview and the selection was made in accordance with the established procedure contemplated under law. While so, the writ petitions have been filed by alleging irregularity and illegality in the selection process without any basis. Therefore, the President of Pachaiyappa's Trust Board prayed for dismissal of all the writ petitions.

8. Before the Writ Court, the Registrar of the University of Madras has filed a counter affidavit contending that the Member Secretary of Pachaiyappa's Trust Board, in his letter dated 23.03.2018 requested the University to provide Vice-Chancellor's nominees and experts to select new Principal for the Pachaiyappa's College. In the meantime, the University of Madras has adopted the selection committee for the post of College Principal, as per UGC Regulations 2010, approved by the Syndicate in the meeting held on 19.01.2018 and the same was also circulated to all the affiliated colleges on 30.01.2018, which in turn was forwarded to the Member Secretary of Pachaiyappa's Trust Board, Chennai on 20.04.2018 based on his request. The composition of the committee for selection is tabulated in the counter affidavit of the Registrar, University of Madras, as follows:-

"1. Chairperson of the Governing Body as Chairperson

2. Two members of the Governing Body of the college to be nominated by the Chairperson of whom one shall be an expert in academic administration.

3. One nominee of the Vice Chancellor who shall be a Higher Education expert. In case of colleges notified/declared as minority educational institutions, one nominee of the Chairperson of the College from out of a panel of five names preferably

from minority communities, recommended by the Vice Chancellor of the affiliating University of whom one should be a subject expert.

4. Three experts consisting of the Principal of a college, a Professor and an accomplished educationist not below the rank of a professor (to be nominated by the Governing body of the college) out of a panel of six experts approved by the relevant Statutory body of the University concerned.

5. An academician representing SC/ST/OBC/Minority/ Women/Differently abled categories, if any of candidates representing these categories is the applicant, to be nominated by the Vice Chancellor, if any of the above members of the Selection Committee do not belong to that category."

9. According to the Registrar of Madras University, the Member Secretary of Pachaiyappa's Trust has constituted the selection committee satisfying the quorum and submitted the minutes of the meeting of the Selection Committee for recruitment of Principal held on 07.05.2018. It was also stated that the Academic Council of the University in the meeting held on 25.02.1995 resolved that the post of Principal may be filled either by promotion or by direct recruitment through advertisement in leading dailies. In this case, the Pachaiyappa's Trust Board had filled the post of Principal by promotion and the College has also submitted the seniority list. Further, the Pachaiyappa's College is a Government Aided Grade-I College and as per the rules prescribed, Dr. N. Shettu is eligible to hold the post of Principal by promotion with effect from 09.06.2018. The Syndicate also in the meeting held on 28.06.2018 has duly considered the request of the Member Secretary of Pachaiyappa's Trust Board, Chennai to grant approval for appointment of Dr. N. Shettu to hold the post of Principal by promotion with effect from 09.06.2018 and it was also approved by the University and the order of approval was also communicated on 09.07.2018. In such circumstances, the Registrar of University of Madras prayed for dismissal of the writ petitions.

10. A similar counter was filed by the Director of Collegiate Education, Chennai before the Writ Court contending Dr. N. Shettu, Associate Professor of Zoology, Pachaiyappa's College, Chennai was appointed as Principal with effect from 09.06.2018 in place of Dr. S. Kaliraj, who retired on 31.05.2018. by the selection committee. After such appointment, a proposal for approval of appointment of Dr. N. Shettu, as Principal of Pachaiyappa's College, Chennai - 600 030 has been received from the Secretary of the College and the

Director of Collegiate Education, in the proceedings dated 27.09.2018 has approved the appointment on the basis of the recommendations of the selection committee subject to the outcome of W.A. No. 1548 of 2018 filed by Dr. K. Sridhar, Physical Director of Pachaiyappa's College, Chennai challenging the selection and appointment of Dr. N. Shettu as Principal of Pachaiyappa's College, Chennai. In such circumstances, the Director of Collegiate Education prayed for dismissal of the writ petitions

11. The learned single Judge, after hearing the rival submissions, has allowed all the writ petitions on 24.04.2019, hence, these writ appeals.

12. During the pendency of the writ petitions, in a parallel proceeding before this Court in O.A. No. 283 of 2018 and Application No. 2624 of 2018 dated 14.06.2018, Justice P. Shanmugam, a retired Judge of this Court, was appointed as an Interim Administrator of Pachaiyappa's Trust Board to administer the management .

13. When the Writ Appeals came up for hearing before the Division Bench of this Court on 30.04.2019, interim stay of operation of the order passed by the learned single Judge was granted.

14. Mr. N.R. Chandran, learned Senior counsel appearing for the appellant in W.A. No. 1592 of 2019 would contend that the appellant was selected by the validly constituted selection committee. The appellant performed well in the interview and is in possession of all the eligibility required for appointment to the post of Principal. The selection of the appellant for the post of Principal is in order and there is no irregularity or illegality tainting the same. The selection of the appellant was also approved by the University of Madras on 09.07.2018 as also the Director of Collegiate Education on 27.09.2018. In fact, immediately after the appellant was selected, he had taken charge of the post of Principal on 09.06.2018 and was performing the duties of Principal of the college. The respondents 1 and 2 in W.A. No. 1592 of 2019 did not participate in the selection process, while so, they are estopped from challenging the selection process. It is further contended that since the respondents 1 and 2 did not even apply for the post, the writ petitions filed at their instance is not maintainable and filing of such writ petitions by the persons who did not participate in the selection process would amount to a Public Interest Litigation. It is well settled that a Public Interest Litigation is not maintainable in service matters and therefore,

the learned single Judge ought not to have entertained the writ petitions. The learned Senior counsel further contended that the learned single Judge failed to appreciate that UGC Regulations framed under the University Grants Commission Act, is a Central enactment and it holds the field, while so, for the manner of selection of Principals of the Colleges, the provisions under the Tamil Nadu Private Colleges Act and Rules would be rendered inoperative under the Doctrine of Repugnancy as enunciated under Article 254 of The Constitution of India especially when Education is coming under Entry 25 of the Concurrent list. Moreover, the UGC Act and Regulations are intended to coordinate and determine standards for higher education, which falls under Entry 66 of List I (Union List) of Schedule VII. Therefore, the State enactment particularly under Rule 11 (4) is invalid in so far as the constitution of selection committee in this case. In this context, the learned Senior counsel relied on the decision of the Honourable Supreme Court in the case of (Thirumuruga Kirupananda Variyar Medical Educational Trust vs. State of Tamil Nadu reported in 1996 (3) Supreme Court Cases 15 wherein it was held as follows:-

"....In other words, as a result of insertion of Section 10A in the Indian Medical Council Act, 1956 by the Central Act, with effect from August 27, 1992, the proviso to Section 5(5) of the Medical University Act has ceased to apply in the matter of establishment of a medical college in the State of Tamil Nadu and its affiliation to the Medical University and for the purpose of establishing a medical college permission of the Central Government has to be obtained in accordance with the provisions of Section 10A. If such a permission is granted by the Central Government a further permission of the State Government under the proviso to Section 5(5) of the Medical University Act would not be required for the purpose of obtaining affiliation of such a college to the Medical University.

15. The learned Senior counsel for the appellant in W.A. No. 1592 proceeded to contend that the learned single Judge erred in observing that there were corrupt activities in the process of selection and directing the Interim Administrator to file a complaint with the Directorate of Vigilance and Anti Corruption without any averments to that effect. There are no substantial grounds or material irregularities raised or pointed out in the writ petition warranting the learned single Judge to vitiate the entire selection process. The learned single Judge also did not consider that the successful candidates in the

selection process were not added as parties and therefore, the writ petitions are liable to be dismissed for non-joinder of necessary parties. The learned Senior counsel therefore prayed for allowing the writ appeal No. 1592 of 2019.

16. Mr. Ar.L. Sundaresan, learned Senior counsel appearing for the appellant in W.A. No. 2723 of 2019 would vehemently contend that the writ petitions are not maintainable as the writ petitioners did not challenge the order of approval dated 12.07.2018 granted by the University of Madras according approval of appointment of the appellant in W.A. No. 2723 of 2019. A similar approval was given by the Directorate of Collegiate Education dated 12.04.2019 and it was also not challenged by the writ petitioners. When the consequential orders are not challenged, the writ petitions challenging only the order of appointment of the appellant is not maintainable. Above all, W.P. No. 12126 to 12129 of 2018 were dismissed by this Court on 08.06.2018. However, only as against the order dated 08.06.2018 passed in WP No. 12126 of 2018, an appeal in W.A. No. 1548 of 2019 was filed and the Division Bench of this Court, by order dated 24.08.2018 remanded the matter back to the Writ Court viz., WP No. 12126 of 2019 for passing orders afresh. Thus, as on the date on which the learned single Judge passed the order on 24.04.2019, WP Nos. 12126 to 12128 of 2018 were not pending, however, the learned single Judge passed the order dated 24.04.2019 in WP Nos. 12126 to 12128 of 2018 as well. Even otherwise, the appellant was found to be most meritorious in terms of academic qualification, research experience, administrative experience and ability and also performed better during the course of interview. Further, according to the learned Senior counsel, there was no material to show that there was any unfairness or arbitrariness during the course of selection process. The learned single Judge was carried away by technical grounds raised by the writ petitioners without rendering any finding on the merits of the submission. There is no violation of Rule 11 (4) of Tamil Nadu Private Colleges (Regulation) Rules as eligible candidates of all the six colleges within the umbrella of Pachaiyappas Trust have been considered. Further, the University sent different nominees for different colleges in terms of UGC regulations. The mere failure to mention API requirement is not relevant as all the selection criteria need not be mentioned in the notification. The fact remains that the notification clearly informs the candidates that selection would be in accordance with UGC norms and guidelines and as such mere fact that API was not mentioned in the notification would not vitiate the selection. Even assuming without admitting that there were irregularities, they do not affect the comparative assessment of merit in the

selection process. In this context, the learned Senior counsel placed reliance on the decision of the Division Bench of this Court in JM Jacqueline Maley vs. Union of India reported in 2009 - 7 - MLJ 749 to contend that all irregularities are not illegalities since merit has been the basis for selection, even if there was deviation from the Rules. It is also contended by the learned Senior counsel for the appellant in W.A. No. 2723 of 2019 that in cases of this nature, judicial review is legally impermissible and the learned single Judge ought not to have declared the selection process as void without any strong materials made available. In this context, the learned Senior counsel for appellant placed reliance on the decision of the Honourable Supreme Court in MV Thimmaiah vs. UPSC reported in (2008-2-SCC 119) to contend that the Courts can neither sit as an appellate authority to examine recommendations of the selection committee like a Court of appeal nor is it the business of the Court to examine each candidate and record its opinion. The learned Senior counsel therefore prayed for allowing W.A. No. 2723 of 2019.

17. Mr. Satish Parasaran, learned Senior counsel appearing for the appellant in W.A. No. 1584 of 2019 would contend that the learned single Judge went beyond the scope of the writ petitions and recorded extraneous factors not on record to conclude that the selection process is tainted by arbitrariness especially without hearing the persons who are likely to be aggrieved by such order. According to the learned Senior counsel, originally, four writ petitions namely WP Nos. 12126 to 12129 of 2018 were filed challenging the notification dated 20.04.2018. All the four writ petitions were dismissed on 08.06.2018, however, against the order of dismissal, only one Writ Appeal No. 1548 of 2018 was filed. The Writ Appeal came to be allowed on 24.08.2018 and the matter was remanded back to the learned single Judge for consideration of WP No. 12126 of 2018 alone. Thereafter, another writ petition being WP No. 27095 of 2018 was filed challenging the appointment Dr. N. Shettu. Thus the writ petition challenging the notification dated 20.04.2018 and the appointment of appellant Dr. N. Shettu were before the learned single Judge. However, the learned single Judge, by common order dated 24.04.2018 allowed WP No. 27095, 12126, 12127, 12128, 12129, 31076 and 31083 of 2018. Thus, the learned single Judge exceeded his jurisdiction and allowed the writ petitions which were originally dismissed and not restored. Therefore, on this ground alone, the order of the learned single Judge has to be set aside.

18. The learned Senior counsel for the appellant further contended that non-compliance of Rule 11 (4) or non-indication

of API is not a ground for the learned single Judge to declare the entire selection process as null and void. Rule 11 (4) states that for the purpose of selection process, the colleges are to be treated as one unit. In other words, the application is to be kept open to all colleges and applications are considered in toto for the purpose of merit, ability and seniority. The selection process is open to all the eligible candidates from all the colleges and there is no restriction. The notification also specifically states that it is to be circulated to all colleges and all colleges will be treated as one unit. Further, in the notification, it is clearly stated that applications will be processed in accordance with the applicable UGC guidelines, meaning thereby, the requirements of UGC will be the basis of selection, which includes API scores as well. In any event, a valid selection committee has been constituted and the selection was also approved by the University of Madras as well as the Directorate of Collegiate Education. The learned single Judge, merely on suspicion without any material to substantiate such suspicion has declared that the selection is tainted by arbitrariness and is malafide. When such a conclusion has been arrived, the learned single Judge ought to have given an opportunity to the committee members to respond to those allegations. However, the members of the selection committee were not impleaded as parties to the writ proceedings. In this context, the learned Senior counsel relied on the decision of the Honourable Supreme Court in Chandra Prakash Singh vs. Chairman, Purvanchal Gramin Bank and others reported in (2008) 12 Supreme Court Cases 292 wherein it has been held that the burden of proving mala fides/nepotism/favouritism in selection process is very high on the person alleging it unless there is sufficient material for the Court to presume bona fides and regularity of proceedings. The learned Senior counsel also placed reliance on the decision of the Honourable Supreme Court in the case of State of Madhya Pradesh vs. Nandlal Jaiswal reported in AIR 1987 SC 251 wherein the Honourable Supreme Court expunged the sweeping remarks made against the respondents therein on the ground that there was not even an iota of evidence to arrive at a conclusion of mala fide, as, in this case, to arrive at a conclusion of malafide.

19. The learned Senior counsel appearing for the appellant also would further contend that in V. Chandran vs. Oil Selection Board reported in 1995 (II) CTC 286 the Division Bench of this Court held that while exercising writ jurisdiction in relation to selection process, the Court cannot re-examine and re-appreciate the evidence, for which the decision of the expert body is to be relied on, in the absence of any proof of arbitrariness or irregularity. In the present case, according

to the learned Senior counsel, there is no material made available to show that the selection process is tainted with malafide or arbitrariness, while so, the order of the learned single Judge has to be set aside.

20. By referring to the averments made by the Interim Administrator in his counter affidavit, the learned Senior counsel submitted that those averments do not form part of the material in the writ petitions. While so, no fresh material can be introduced at the appellate Stage and therefore, the learned Senior counsel prayed for allowing the Writ Appeal No. 1584 of 2019.

21. Mr.P.V.S. Giridhar, learned counsel for the appellant in W.A. No. 1594 of 2019 would contend that the writ petitioner Dr. R. Nanthini having participated in the selection process with her eyes open, is estopped from challenging the selection process once it is found that she could not succeed in the selection process. The notification dated 20.04.2018 is not in violation of Rule 11 (4) as it was circulated to all the constituent colleges and all the faculties were made aware of the selection process. It is his contention that mere failure to mention API in the notification is not relevant to declare the entire selection invalid especially when the writ petitions were filed after the selectees have taken charge of the post of Principal. Even otherwise, marks were awarded separately for academic performance and experience, research activity and administrative experience and as such when API is merely a screening process and no candidate has been excluded on that ground, the prejudice said to have been caused to the writ petitioners cannot be countenanced. The selection process was fair and objective with detailed consideration of all the relevant criteria under the PBAS (Performance Based Appraisal System) prescribed under the UGC Regulations. To drive home the point that the Court has to ascertain only substantial compliance of the statutory provisions while interfering with selection process, the learned counsel relied on the decision of the Honourable Supreme Court in the case of Karam Pal vs. Union of India reported in AIR 1985 Supreme Court 774 wherein it was held that if there is substantial compliance in implementing the Rules, judicial interference is not required. The learned counsel for the appellant also contended that even assuming without admitting that there were any irregularities, they do not affect the core of the comparative assessment of merit in the selection process. It is also his contention that the appellant possess the requisite qualification, experience and academic skills and therefore, his selection cannot be said to

be irregular or illegal. In this context, the learned counsel placed reliance on the decision of the Division Bench of this Court in the case of JM Jacqueline Maley vs. Union of India reported in 2009 7 Madras Law Journal 749 wherein it was held that all irregularities are not illegalities since merit has been the basis for selection, even if there was deviation from Rules. Moreover, the learned counsel for the appellant would contend that in matters of selection and appointment, judicial review is limited and the Court has to only ascertain substantial compliance of the procedural formalities and not to substitute its view over the one arrived at by the administrators. The learned counsel therefore prayed for allowing the Writ Appeal No. 1594 of 2019.

22. Mr. Sugumaran, learned counsel appearing for the appellants in W.A. Nos. 2722, 2723 and 2724 of 2019 would contend that the learned single Judge, without hearing the appellants in the writ proceedings, has quashed the selection and appointment of the appellants as Principal of Pachaiyappa's college, which is in gross violation of principles of natural justice. The failure on the part of the writ petitioners to implead the appellants herein suffers from the principle of non-joinder of necessary parties and on that ground, the learned single Judge ought to have dismissed the writ petition. It is further stated that originally Writ Petition Nos. 12126 to 12129 of 2018 came to be filed by Dr. K.S. Sridhar and another challenging the four separate notifications dated 20.04.2018 issued by the Pachaiyappa's Trust Board informing about the vacancies for the post of Principals coming under the Trust. According to the learned counsel, the said notifications clearly emphasise about the one unit system, as contemplated under Rule 11 (4) (ii) of The Tamil Nadu Private Colleges (Regulations) Rules. The above writ petitions were disposed of on 08.06.2018 against which WA No. 1548 of 2018 was filed only against the order in WP No. 12126 of 2018. Thus, the challenges made in respect of the other three notifications relating to Pachaiyappa's College for Men and Women in Kancheepuram and Chellammal College in Guindy have come to an end as the order of dismissal in WP Nos. 12127 to 12129 of 2018 has become final. While so, the learned Judge ought not to have dealt with WP No. 12127 to 12129 of 2018 as it is hit by the principle of *functus officio*. Further, the learned Judge failed to consider that the writ petitioners have no *locus standi* to file the writ petitions questioning the selection process when they have not even applied for the post of Principal. Even otherwise, the appellants are fully qualified to hold the post and they possess rich academic and administrative experience. While so, no fault can be attributed in the selection of the appellants for the

post of Principal of the respective Colleges. Even though the learned single Judge had cited certain violation of UGC norms and Regulations in the selection process, there was no specific violation attributed against the appellants. The appellant Dr. N. Shettu was appointed as Principal, Grade-I in Pachaiyappa's College, Chennai, while the other three colleges, for which selection was held, is for the post of Principal Grade-II and in such circumstances, common selection need not be conducted. The classification, pay scales and other duties and responsibilities attached to the post of Principal Grade-I and Principal Grade-II is entirely different while so, separate notification issued is legally sustainable. The learned counsel for the appellants therefore prayed for setting aside the order of the learned single Judge. In support of his contention, the learned counsel placed reliance on the decision of the Honourable Supreme Court in Chandigarh Administration through The Director, Public Instructions (Colleges), Chandigarh vs. Usha Kheterpal Waie and others) reported in (2011) 9 Supreme Court Cases 645 to contend that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any requirement, over which, Courts or Tribunals can neither prescribe the qualifications nor entrench upon the power of authority concerned, so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of the Constitution, statute and rules.

23. Per contra, Mr. V.T. Gopalan, learned Senior counsel appearing for the first respondent in W.A. No. 1594 of 2019 would contend that the circular dated 20.04.2018 issued by the Pachaiyappa's Trust Board suffers from infirmities and it is in violation of UGC Regulations, 2010 and the Tamil Nadu Private Colleges (Regulation) Rules, 1976. As per Rule 11 (4) (ii) of Tamil Nadu Private Colleges (Regulations) Rules, 1976, if an educational agency is established and administers more than one college, such colleges under the control of the educational agency shall be treated as one unit. While so, the Pachaiyappa's Trust Board ought to have issued a single notification for selection to the post of Principal instead of issuing four separate notifications. Therefore, the issuance of four separate notifications itself is in violation of Rule 11 (4) and on that ground, the entire selection process is vitiated. As per clause 4.2.0 (iv) of the UGC Regulations, 2010, a person who aspires to get appointed to the post of Principal must possess the minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) set out in UGC Regulation in Tables I to

IX of Appendix III. In the present case, the said regulation has been totally by passed and the selection has been done systematically with malafide intention of selecting a person of their choice against the regulations and merits. The learned Senior counsel invited our attention to the marks awarded to the participants in the selection process and contended that at the bottom of the mark statement relating to Dr. N. Shettu, it has been written in manuscript "Dr. N. Shettu is appointed as Principal of Pachaiyappa's College, Chennai and it is signed only by the Chairperson and no other member of the selection committee has signed the consolidated mark statement. By inviting the attention of this Court to the marks awarded to the participants in the selection process and various other deficiencies, the learned Senior counsel would contend that the assessment of merit and ability have not been made in the selection committee in a manner known to law and it is evident that Principals for each college has been fixed and accordingly documents are prepared. There has been no wait listed candidate for any of these colleges. Therefore, according to the learned Senior counsel, the entire selection is marred by fraud and collusion. There is absolute arbitrariness writ large on the face of the records emanated out of the oral interview and the tabulation of marks awarded thereof. Therefore, the learned Senior counsel would submit that the learned single Judge is right in declaring the entire selection as void and he prayed for dismissal of the appeals.

24. Mr. Issac Mohanlal, learned Senior counsel appearing for the Interim Administrator appointed by this Court would contend that the Pachaiyappa's Trust Board failed to adhere to Rule 11 (4) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 which led to large scale violation in the selection process. All the Associate Professors in all the colleges within the fold of Pachaiyappa's Trust Board ought to have been considered for promotion, but in the present case, it was not done. The Pachaiyappa's Trust Board runs six private colleges and is considered as a single unit, while so, one common selection with a rank list for the selection of Principals of all the four colleges is desirable. The post of Principal being promotional post, the Associate Professor/Professors working in all the colleges under the Management of Pachaiyappa's Trust Board ought to have been considered in the selection process. Even though the notifications indicate that the Associate Professors/Professors are eligible to apply, it was worded in such a manner that the applicants can apply for the post of Principal of a particular college only. Thus, the eligible applicants were restricted to be considered in the selection process which is in clear violation of Rule 11 (4). Further,

the selection to the post of Principal has to be done as per the norms prescribed by the UGC with reference to Minimum Qualification for Appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the Maintenance in higher education Regulations, 2016 read with Section 15 of the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Rule 11 of Tamil Nadu Private Colleges (Regulations), Rules 1976. Even though in the Circular dated 20.04.2018 it was mentioned that selection will be on the basis of UGC Regulations, 2010, the Circular was issued by omitting clause sub-clause (iv) of Clause 4.2.0 of UGC Regulations, 2010, which is one of the vital conditions prescribed in the UGC Regulations, 2010. Even in the affidavits filed in support of Writ Petition Nos. 12126, 12127, 12128 and 12129 of 2018 allegations of favouritism, influence, hurried selection process have been raised, for which, no proper reply has been given in the counter filed on behalf of the Pachaiyappa's Trust Board. As regards the distinction between the selection to the post of Principal Grade -I and Principal Grade-II, there is no distinction made in the UGC Regulations to justify the stand of the Pachaiyappa's Trust Board to issue separate notifications for the colleges under their administrative control. Further, the applicants who participated in the selection process have submitted their applications along with enclosures running to 200 to 300 pages but it is not clear as to whether all the credentials of the candidates have been considered before the interview or not. By referring to the Annexure to UGC Regulations, 2010 and the stages involved in the selection process as per UGC norms, the learned Senior counsel for the Interim Administrator would contend that the selection procedure for the post of Principal is to be objective and creditable analysis on the basis of merits. Instead of following the method of assessment provided under UGC norms, the selection committee followed it's own norms and selected the candidate. A study of the mark awarded by the selection committee in all these four colleges reveal a pattern. Almost all the members have awarded identical marks with slight variations under 22 heads except for the marks for interview. Further, the members in the selection committee have signed blank mark sheets so as to enable the authorities to put the marks for their convenience and select the candidate of their choice. The interview marks only tilts the selection. In any event, in the absence of any credible materials to show that the norms were followed in assessing the merit and awarding consolidated API scores, the selection is exfacie illegal and it vitiates the selection process.

25. The learned Senior counsel proceeded to contend that each college has more than thrice or twice the number of applicants eligible for selection, but it is not known as to why those fully qualified candidates did not come forward to file their application for selection. This would only show that the selection is pre-determined and it was not transparent. The learned single Judge did not go into the comparative merits and qualification of the candidates. However, since the writ petitioners have raised many points on the basis of academic records and qualification, it has become necessary for the learned single Judge to unearth the truth by directing the Interim Administrator to file a complaint before the Vigilance and Anti Corruption Department. If the irregularities and illegalities have criminal element, the same can be gone into by the investigating agency. In support of his contention, the learned Senior counsel for the Interim Administrator relied on the decisions of the Honourable Supreme Court in the case of (Commissioner of Income Tax, Mumbai vs. Anjum M.H. Ghaswala and others) reported in 2002 1 Supreme Court Cases 633 to contend that when an authority has to exercise the power under the Statute in a particular manner, then the same has to be exercised only in that manner. Reliance was also placed on the decision of the Division Bench of this Court in the case of (Sri Kasi Mutt Educational Agency of Sri Kumaragurubara Swamigal Arts College, Srivaikuntam and another vs. The Commissioner of Collegiate Education, College Road, Chennai and others) reported in 2002 Writ Law Reporter 538 to contend that if there are various colleges under an educational agency, all of them have to be treated as a single unit. In such view of the matter, the learned Senior counsel appearing for the Interim Administrator prayed for dismissal of the writ appeals.

26. Above all, the learned Senior counsel appearing for the Interim Administrator submitted that if this Court concludes that the order passed by the learned single Judge is legally sustainable and dismisses the writ appeals, a separate selection committee shall be constituted, for which purpose, a retired Judge of this Court shall be appointed, who, apart from constituting the new selection committee shall also be directed to complete the selection process within a time to be stipulated by this Court.

27. We have heard the learned counsel on either side and perused the materials placed on record. In the light of the arguments advanced by the counsel on either side, the question that falls for our consideration in these appeals are (i) whether the colleges administered and established by an educational agency has to be treated as one unit, if so, in the

instance case, the four separate notifications issued by Pachaiyappa's Trust Board for four different colleges coming within the fold of educational agency, is justifiable (ii) whether the notification dated 20.04.2018 has been issued in violation of UGC Regulations, 2010 as well as Rule 11 (4) of The Tamil Nadu Private Colleges (Regulations) Rules and (iii) Whether the non-indication of API in the notification dated 20.04.2018 is a violation of the UGC Regulation, if so, whether it would vitiate the selection process in this case.

28. The foremost submissions made before the learned single Judge as well as this Court is that the Pachaiyappa's Trust Board is running six colleges which are coming within it's administrative fold, while so, all the colleges administered by it have to be treated as one unit. However, for the purpose of selection and appointment to the post of Principals in four colleges run by it, four separate notifications have been issued by the Pachaiyappa's Trust Board on 20.04.2018. This according to the writ petitioners is one of the flaws in the selection process and it had deprived several eligible persons from applying for the post.

29. Admittedly, there are six colleges run under the administrative control of Pachaiyappa's Trust Board. There arose vacancies for the post of Principal in four of it's college. For the purpose of selection and appointment to the post of Principals in four of it's colleges, a single notification ought to have been issued instead of issuing separate notifications. This is in consonance with Rule 11 (4) (ii) of The Tamil Nadu Private Colleges Regulations, which mandates that the selection committee shall, while making promotion, consider the claims of all the qualified teachers in that college. The explanation to Rule 11 (4) (ii) clearly stipulates that for the purpose of this rule, if an educational agency has established and administered more than one college, then the colleges under the control of that educational agency shall be treated as one unit. However, this procedure has been violated by issuing four separate notifications for the constituent colleges for selection and appointment to the post of Principal. In such circumstances, as rightly pointed out by the writ petitioners, there must be a single notification inviting applications for all the posts of Principals in various colleges run by the Pachaiyappa's Trust Board and issuing separate notification is not appreciable. In fact, in the decision cited by the learned Senior counsel appearing for the first respondent in W.A. No. 1594 of 2019 in the case of Sri Kasi Mutt Educational Agency (2002 Writ Law Reporter 538) mentioned supra, in an identical case, the Division Bench of

this Court has in para No.12 held that for proper and effective enforcement of the provisions of the Act, it will be convenient for the educational agency to obtain the approval of the educational authorities to treat the educational agency as a single corporate unit when it runs more than one educational institution. In the present case also, as there are more than one college run by the Pachaiyappa's Trust Board, among them, the post of Principal fell vacant in four colleges. While so, as per the decision of the Division Bench of this Court mentioned above, the colleges run by the educational agency namely Pachaiyappa's Trust Board has to be treated as a single unit and all the promotion, transfer and seniority has to be fixed on the basis of the eligibility of all the staff working in the colleges administered by it. Further, in the common Counter affidavit filed by the Interim Administrator appointed by this Court on 11.06.2019, in para No. 22, it was stated as follows:-

"22. Another important aspect to be taken note of is that each College has more than thrice or twice the number of applicants eligible for selection. While so, it is not known as to why those fully qualified candidates did not come forward to file applications for selection. Probably as apprehended by petitioners Dr. K. Sridhar, G. Karunamurthy and others and even N. Shettu in O.A. No. 148 of 2015 in A. No. 1260 of 2015, has stated that the selection is pre-determined and there will be no use in filing application for selection."

30. This portion of the counter affidavit of the Interim Administrator could only give rise to an inference that even though there are eligible candidates available for selection and appointment to the posts, for various reasons, they did not participate in the selection. Whenever selection process is initiated, it must be seen that all those who are qualified and/or eligible must participate in the selection process so that a person who possess all qualification, ability, experience and innovation required for the post, is selected. However, in the present case, by reason of issuing four separate notification for four posts of Principals for four colleges coming within the administrative fold of Pachaiyappa's Trust Board, efficient and eligible candidates could not participate. Even in the counter affidavit dated Nil May 2018 filed on behalf of the Chairman of Pachaiyappa's Trust Board, in para No.11, reference was made to constitution of four separate selection committee for each of the four colleges, pursuant to the issuance of four separate notifications, conduct of separate interview on various dates etc., In any event, when six

colleges are run by Pachaiyappa's Trust Board, all the colleges must be treated as one unit for the purpose of selection and appointment, seniority, promotion and transfer. We therefore hold that the selection process is vitiated by reason of issuing four separate notification for the constituent colleges which comes within the administrative fold of Pachaiyappa's Trust Board especially when it is in violation of Rule 11 (4) of The Tamil Nadu Private College (Regulation) Rules. In this context, Rule 11 (4) of The Tamil Nadu Private Colleges (Regulation) Rules, 1976 is required to be looked into. Rule 11 relates to conditions of service of teachers and other persons in colleges. Sub-rule (4) of Rule 11 deals with promotions in respect of teaching staff. It is clearly contemplated under Rule 11 (4) that promotions in respect of teaching staff shall be made on grounds of merits and ability, seniority being considered only where merit and ability are approximately equal. In the present case, by virtue of issuance of four separate notification, eligible candidate were deprived of participating in the selection process and thus, the non-compliance of Rule 11 (4) vitiates the entire selection process.

31. Next it is vehemently contended that the notification dated 20.04.2018 has been issued in violation of UGC Regulations, 2010. The colleges run by Pachaiyappa's Trust Board, an educational agency, is undoubtedly governed by the University Grants Commission. The Regulations issued by the UGC are mandatory in nature and all the Universities or Colleges have to strictly comply with the same without any deviation. Clause 4.2.0 of UGC Regulations deals appointment to the post of Principal. For more clarity, Clause 4.2.0 of the UGC Regulation, 2010 is extracted hereunder:-

"4.2.0. Principal

i. A Master's Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) by a recognised University

ii. A Ph.D Degree in concerned/allied/relevant discipline (s) in the institution concerned with evidence of published work and research guidance

iii. Associate Professor/Professor with a total experience of fifteen years of teaching/research/administration in Universities, Colleges and other institutions of higher education.

iv. A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Tables I to IX of Appendix III."

32. From the above, it is clear that Clause 4.2.0 (iv) of UGC Regulations clearly stipulate that "a minimum score as

stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) set out in this Regulation in Table I to IX of Appendix III is followed. As per Appendix-III, Table - 1, the proposed scores for academic performance indicators (APIs) is to be indicated, which is relevant for recruitment and career advancement scheme (CAS) promotions of University/College Teachers. This appendix clearly stipulates that API is relevant to evaluate the teacher's self-assessment. It is also relevant to evaluate the teaching related activity, domain knowledge, participation in examination and evaluation and contribution to innovative teaching, new courses etc., As per Appendix-III, Table -I, the minimum API score required to be possessed by teachers is 75. Further, the self-assessment score should be based on objectively verifiable criteria wherever possible and will be finalised by the screening/selection committee. Further, as per Clause 6.3.2 of the UGC Regulations, a candidate who does not fulfil the minimum score requirement under the API scoring System proposed in the Regulations as per Tables II (a and b) of Appendix III or those who obtain less than 50% in the expert assessment of the selection process will have to be re-assessed only after a minimum period of one year. Thus, evaluation of API is one of the significant factors required to be examined during the process of selection. In the present case, admittedly, in the notification dated 20.04.2018, there is no reference made to clause 4.2.0. (iv) relating to API and it is omitted to be indicated therein even though Clause 4.2.0 (i) to (iii) have been verbatim referred to in the notification dated 20.04.2018. This is pointed out as one of the violations of the UGC regulations by the writ petitioners. Even though it was contended that in the Circular dated 20.04.2018 it was stated that the selection will be based on UGC norms, it is not enough. Thus, the requirement to possess API has not been mentioned in the circular dated 20.04.2018 which is in violation of the UGC Regulations. On this ground alone, the selection process has to be declared invalid. It is settled proposition of law that when the Statute prescribes an act to be done in a particular manner, it must be done only in that manner and not in any other manner. Further, it is brought to our notice that during the selection process, the applicants have submitted their applications along with enclosures containing 200 to 300 pages, but it is really surprising as to whether those enclosures of the candidates have been scrutinised and evaluated within a short span of time. Therefore, we are of the view that even the interview conducted by the selection committee lacks transparency. Further, the Interim Administrator, in his counter affidavit has stated that the members in the selection committee have signed blank mark sheets to enable the authorities to award the marks at their

whims and fancy to select a particular candidate of their choice. It was also stated that erratic marks were awarded during interview which had tilted the selection or choice of candidate, as has been pre-determined. In such circumstances, we are in agreement with the findings rendered by the learned single Judge that the selection process is marred by non-adherence to statutory procedures and consequently, we hold that the Pachaiyappa's Trust Board did not adhere to the norms prescribed in the UGC Regulations, 2010 in the process of selection and appointment to the post of Principal to the constituent colleges within it's administrative fold.

33. Yet another submission made before us is that some of the appellants were not parties to the writ petitions and without hearing them, the learned single Judge declared their selection and appointment to the post of Principal as null and void. It is true that some of the appellants were not parties before the Writ Court. However, writ appeals have been filed before us after obtaining leave and those appellants have also been heard. Therefore, in order to render complete justice, we are not inclined to consider this submission to set aside the order of the learned single Judge. This is more so that this Court is only dealing with the effect of issuing four notifications for selection to the post of Principal when the colleges coming under the educational agency has to be treated as a single unit and for violation of UGC Regulations. When statutory breach is so apparent in the selection process, we could not set aside the order of the learned single Judge on technical ground. Moreover, the Regulations framed by the University Grants Commission are not mere empty formality to be ignored and they should be complied with in letter and spirit and any violation thereof would give rise to the inference that the selection process lacks transparency. Further, by virtue of quashing the selection and appointment to the post of Principal to the constituent colleges of Pachaiyappa's Trust Board with a direction to conduct a fresh selection process, all the persons who possess the requisite qualification and/or eligibility can get an opportunity to participate in the selection process and in such event, no prejudice will be caused to any one. In this regard, we are fortified by the decision of the Division Bench of this Court in the case of The Secretary, Kamaraj College, Thoothukudi vs. D.S. Arulmani and others reported in 2008-1-Law Weekly page No.530 wherein it was held that the Regulations of University Grants Commission have statutory force and the Universities as well as the Colleges affiliated to the Universities are obliged to follow the same.

34. It is the submission of Mr. Sugumaran, learned counsel appearing for the appellants in W.A. Nos. 2722, 2723 and 2724 of 2019 that originally Writ Petition Nos. 12126 to 12129 of 2018 came to be filed by Dr. K.S. Sridhar and another challenging the four separate notifications dated 20.04.2018 issued by the Pachaiyappa's Trust Board and they were dismissed on 08.06.2018. However, only as against the order passed in WP No. 12126 of 2018, WA No. 1548 of 2018 was filed before the Division Bench and the Division Bench of this Court, by order dated 24.08.2018, remanded WP No. 12126 of 2019 for passing orders afresh. Thus, as on the date on which the learned single Judge passed the order on 24.04.2019, WP Nos. 12126 to 12128 of 2018 were not pending, however, the learned single Judge passed the order dated 24.04.2019 in WP Nos. 12126 to 12128 of 2018 as well. It is no doubt true that WP Nos. 12126 to 12128 of 2018 were not pending on 24.04.2019 when the learned single Judge passed the orders in the writ petitions. It is not known as to whether the order dated 24.08.2018 passed in WP Nos. 12126 to 12128 of 2018 were brought to the notice of the learned single Judge. The learned single Judge, on noticing the glaring irregularities in the selection process dealt with all the writ petitions in order to settle the controversy involved in the writ petition. The learned single Judge found that grave injustice has been caused to some of the eligible candidates, ordered for initiating fresh selection process and while doing so, in an urge to give a quietus to the dispute, passed the order in WP Nos. 12126 to 12128 of 2018 as well. At any rate, given the magnitude of the irregularities committed in selection and appointment to the post of Principal by breaching the statutory regulations and the ultimate direction issued by the learned single Judge to conduct a fresh selection process, we are not inclined to set aside the order of the learned single Judge in passing order in WP Nos. 12126 to 12128 of 2018 as well.

35. As we have concluded that the selection process is marred by irregularities and breach of UGC Regulations, we are inclined to confirm the order passed by the learned single Judge. At the same time, we find that there is no strong or direct materials made available to conclude that there were corrupt practice and motives attributable against the selection committee. At best, the selection is only vitiated by reason of non-adherence to the UGC Regulations and other procedural aspects. In such view of the matter, as rightly pointed out by the learned single Judge in Para No.85 (4), the Interim Administrator shall look into the complaints made by the writ petitioners with respect to corrupt practice, if any material is

made available, if so, then the Interim Administrator is at liberty to proceed further in accordance with law.

36. In the light of the above conclusion arrived at by us and having regard to the submissions made on behalf of the Interim Administrator of Pachaiyappa's Trust Board, we hereby appoint Justice N. Paul Vasanthakumar, retired Judge of this Court to constitute a fresh selection committee, for selection and appointment of the Principal of the constituent colleges administered by Pachaiyappa's Trust Board and also to complete the entire selection process as soon as possible, preferably, within a period of three months. The learned Interim Administrator shall issue a common notification for selection and appointment of Principals for all the colleges of the Pachaiyappa's Trust Board. The initial remuneration payable to Justice N. Paul Vasanthakumar is fixed at Rs.5,00,000/- which is payable by the Pachaiyappa's Trust Board.

37. Subject to the above observation, we confirm the order passed by the learned single Judge and consequently, the Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Principal Secretary to Government
Higher Education Department
Fort St. George
Chennai - 600 009
2. The Vice Chancellor
University of Madras
Chepauk, Chennai - 600 005
3. Director of College at Education
Office of the Director of Collegiate Education
9th Floor, E.V.K. Sampath Buildings
College Road
Chennai - 600 006

4 The Chairman
The Selection Committee
Pachiyappa's Trust Board office
Pachiyappa's College
Chennai-30

5.The Secretary
College Committee
Pachiyappa's Trust Board office
Chennai-30

6.The Interim Administration
Pachayyapas Trust Board
Chennai

7.The Hon'ble Mr.Justice N.Paul Vasantha Kumar, (Retd CJ)
ASHIRVAVH
No.24 A IInd Street, Kamaraj Avenue
Adyar, Chennai-20

+6 cc to Mr.K.V.Sundarajan Advocate sr88023,88020
88021,88024,88025,88022
+3 ccs to M/s.A.Ramesh Babu Advocate sr88779
+2 cc to M/s.D.Prasanna Advocate sr87951
+1 cc to M/s.B. Saraswathi Advocate sr88355
+10 ccs to M/s.Zubaitha Banu Advocate sr 87950
87948,87949,87947,87946

WA.Nos.1584,1592,1594
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