

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.2642 of 2018
and CMP.No.21463 of 2018

1. The State of Tamil Nadu
Rep.by its Secretary,
Higher Education Department,
Fort St.George, Chennai.
 2. The Director of Collegiate Education,
Chennai-6
 3. The Joint Director of Collegiate Education
Vellore Region, Vellore.
- ...Appellants/Petitioners

Vs.

Jamia Darussalam Oomerabad,
North Arcot District,
Society Bearing Regn. No.47/1976
Rep.by its Secretary,
Kaka Anees Ahmed Oomeri

... Respondent/Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 04.01.2013 made in W.P.No.144 of 2013 on the file of this Court.

WP.NO.144/2013:

This Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Prohibition Prohibiting the respondents from insisting the petitioner to seek declaration of its minority character every year or once in five years for Jamia Darussalam Arabic College, Oomerabad, run by the petitioner.

For Appellant : Mr.V.Kathirvelu
Special Government Pleader

For Respondents : Mr.N.A.Nissar Ahmed

JUDGMENT

(Order of the Court delivered by T.S.Sivagnanam, J.)

This appeal filed by the Government is directed against the order passed in W.P.No.144 of 2013 dated 04.01.2013.

2. The said petition was filed by the respondent /Jamia Darussalam Arabic College, praying for issuance of Writ of Prohibition, prohibiting the appellants from insisting the respondent to seek declaration of its minority status every year or once in five years in respect of the institution run by the respondent.

3. The Learned Single Judge took into consideration, the decision in the case of Thirumuruga Kirupanana Variyar Thvathiru Sundara Swamigal Medical Educational and Charitable Trust, Salem Vs. State of Tamil Nadu [reported in (2001) (3) MLJ 433], the decision in the case of the C.S.I. Institute of Technology, Thovalai Vs. The Government of Tamil Nadu and another [reported in (2004) WLR 202] and Asan Memorial Association Vs. The State of Tamil Nadu [reported in (2009) (6) CTC 579] and allowed the writ petition on the same lines as done by the Division Benches in the earlier judgements.

4. We find that there is no error in the order passed by the learned Single Bench and the learned Single Bench has taken the view consistent with a view taken by the Division Bench in the case of Secretary, Jeyaraj Annapacikam College for women (Autonomous) Vs. The State of Tamil Nadu and others [reported in CDJ (2013) MHC 5667]; The State of Tamil Nadu and others Vs. Loyola College (Autonomous) [reported in CDJ (2017) MHC 6377]; The State of Tamil Nadu, Department of Higher Education, Chennai and others Vs. Vaniyambadi Muslim Educational Society, [reported in CDJ (2017) MHC 6896]; The State of Tamil Nadu Vs. The Manager and Correspondent, Carpenter Street Middle School, Tuticorin [reported in CDJ (2018) MHC 1496]. Much earlier the Hon'ble Supreme Court in the case of Manager, Corporate Educational Agency Vs. James Mathew [reported in CDJ (2017) SC 986] has held that validity of declaration of minority status is a declaration of existing status and society cannot be called upon to obtain

such recommendation once in a year or once in five years.

5. As rightly pointed out by the learned Single Bench, the validity of the minority status is without any restrictions. However, if there is any change in the educational agency or if the institution is running contrary to the Memorandum of Association, it is open to the Government to issue notice and pass fresh orders in accordance with law as observed by the learned Division Bench in the decisions quoted above.

6. The minority status of the respondent was declared by the Government of Tamil Nadu that in G.O(Ms).No. 120, Higher Education (E1) Department, dated 20.05.2009. The Government order stipulates certain conditions. Therefore, if there has been any change in the educational agency, it is well open to the Government to take appropriate action either for with drawal or cancellation of minority status.

7. Therefore, the judgement of the learned writ Court calls for no interference. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary,
Tamil Nadu Higher Education Department,
Fort St.George, Chennai.

2. The Director of Collegiate Education,
Chennai-6

3. The Joint Director of Collegiate Education
Vellore Region, Vellore.

+1cc to Mr.N.A.Nissar Ahmed, Advocate sr.no.12591
+1cc to Government Pleader sr.no.12863

W.A.No.2642 of 2018
C.M.P.No.21463 of 2018

nr 21/03/2019