



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.5860 of 2019

and

WMP(MD)No.4685 of 2019

The Secretary
St.Xavier's College (Autonomous),
Palayamkottai - 627 002,
Tirunelveli District.

... Petitioner

vs.

1.The Director of Collegiate Education,
College Road,
Chennai - 600 006.

2.The Joint Director of Collegiate Education,
Tirunelveli,
Tirunelveli District - 627 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the 2nd respondent, Joint Director to approve forthwith the appointment of M.Solomon as Labouratory Assistant in the petitioner's college and disburse the grant - in - aid towards his salary and allowances w.e.f. 01.07.2017.

For Petitioner : Mr.K.Ragatheeshkumar for
M/s.Isaac Chambers

For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

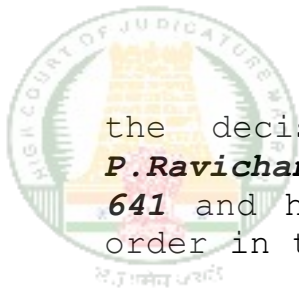
ORDER

This writ petition has been filed seeking a direction to the second respondent to approve forthwith the appointment of one M.Solomon as Laboratory Assistant in the petitioner-college and disburse the grant - in - aid towards his salary and allowances with effect from 01.07.2017.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned Counsel appearing for the petitioner submitted that the issue involved in this case has already been settled by



the decision of this Court on 11.10.2013, in the case of **P.Ravichandran Vs. State of Tamil Nadu**, reported in (2013) 7 MLJ 641 and hence, the learned Counsel prayed for passing of similar order in this writ petition also.

4.The relevant portions of the above said judgment read as follows:

"17. A Division Bench of Madurai Bench of this Court in W.A.(MD)No.462 of 2006, judgment dated 1.12.2006, considered the scope of Rule 11(1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 relying upon the earlier order passed on 13.8.2006, and held that for filling up an existing post in a Private Aided College, no prior approval is necessary as any such appointment shall be subsequently approved by the Department, and at that point of time the Department would have an opportunity to consider the availability of such post and rejection of approval on the ground that no prior approval was obtained before appointment, was set aside. Same is the view taken in in the following orders of this Court:

- (i) W.P.No.30618 of 2005, order dated 21.9.2005;
- (ii) W.P.No.28396 of 2004, order dated 29.3.2006;
- (iii) W.A.Nos.92 & 93 of 2008, judgment dated 6.1.2010;
- (iv) W.P.(MD)No.174 of 2009, order dated 27.4.2010;
- (v) W.A.Nos.140, 811/2006 & 805/2007, judgment dt.21.10.2010;
- (vi) W.A.No.2858 of 2010, judgment dated 21.3.2011;
- (vii) W.A.(MD)No.1088 of 2011, judgment dated 19.10.2011;
- (viii) W.A.No.2345 of 2011, judgment dated 5.3.2012;
- (ix) (2012) 5 MLJ 670 (Dr.S.Sukumaran v. State of Tamilnadu) rendered by one of us (NPVJ); and
- (x) W.A.No.474 of 2013, judgment dated 3.4.2013.

Thus, the issue regarding seeking prior permission for filling up the vacant post in aided College within the academic year was already settled in series of decisions and all the above said orders are implemented by the respondents 1 and 2. In such circumstances, it is not open to the respondents to again and again contend that only after getting prior permission from the Director of Collegiate Education, vacant sanctioned posts can be filled up by the management.

20. In the light of the above findings as well as the decisions, we conclude this Judgment in the following manner:



(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules."

5.The above decision has not been seriously objected to by the learned Additional Government Pleader appearing for the respondents.

6.This Court is of the view that the above judgment covers the issue involved in this writ petition. Therefore, in the light of the judgment cited supra, the second respondent is directed to approve the appointment of M.Solomon as Lab Assistant, on the basis of the proposal sent by the petitioner-college and disburse the grant-in-aid towards his salary and allowances.

7.In the result, the writ petition is allowed. No costs. Consequently, WMP(MD)No.4685 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Director of Collegiate Education,
College Road,
Chennai - 600 006.

2.The Joint Director of Collegiate Education,
Tirunelveli,
Tirunelveli District - 627 002.

+1CC TO MR.ISAAC CHAMBERS, Advocate Sr. No.53876
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.53995

W.P(MD) No.5860 of 2019
13.03.2019

TR (26.04.2019) 3P 5C