



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WEB COPY

WP (MD) No.8693 of 2016

and

WMP (MD) Nos.6944 and 6945 of 2016

The Secretary,
Jayaraj Annapackiam College,
For Women(Autonomous)
Mount St.Anne, Periyakulam,
Theni District - 625 601.
(Managed by the Congregation of the Sisters of
St.Anne, Tiruchirappalli) ... Petitioner
Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of Collegiate Education,
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,
Madurai Region, No.30, Vaidyanatha Iyer Street,
Shenoy Nagar, Madurai - 625 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent Joint Director in Na.Ka.536/U1/2015 dated 27.01.2016, quash the same and further direct the 3rd respondent Joint Director to approve forthwith the appointment of 16 teaching staff (Name List Annexed) in the petitioners College and disburse the grant-in-aid towards their salary and allowances w.e.f, the respective dates of their appointments.

For Petitioner : Mr.T.Cibi Chakraborty
For Respondents : MrV.Anand,
Government Advocate

ORDER

The prayer in this writ petition is to quash the impugned order, by which the proposal sent by the petitioner, for approval of appointment of teaching staff, was rejected mainly on the ground that prior permission for such appointment has not been obtained.

2.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.

3.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."

3.The above decision has not been seriously objected to by the learned Government Advocate.

4.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 impugned order dated 27.01.2016 is hereby quashed and the respondents are directed to approve the appointment of teaching staff on the basis of the proposal sent by the petitioner and disburse the grant-in-aid towards their salary and allowances.

5.In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Secretary,
Department of Higher Education,
Fort St.George, Chennai - 600 009.
 - 2.The Director of Collegiate Education,
College Road, Chennai - 600 006.
 - 3.The Joint Director of Collegiate Education,
Madurai Region, No.30, Vaidyanatha Iyer Street,
Shenoy Nagar, Madurai - 625 001.
- +1cc to Mr.T.CIBI CHAKRABORTHY, Advocate, SR.No.52114
+1cc to M/s.Special Government Pleader,SR.No. 52297

WP(MD)No.8693 of 2016

DSK