



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.23569 of 2019

WEB COPY

M/s.Thiagarajar College
(An Autonomous Institute affiliated
to Madurai Kamaraj University)
Represented by its Secretary
Thiru.K.Thiagarajan
No.139-140, Kamarajar Salari
Teppakulam, Madurai 625 009

...Petitioner

-Vs-

- 1.The Director of Collegiate Education
Office of the Director of Collegiate Education
DPI Campus, 9th Floor
EVK Sampath Buildings, College Road
Chennai 600 006
- 2.The Joint Director of Collegiate Education
Regional Joint Directorate of Collegiate Education
Palam Station Road, Sellur
Madurai 625 002
- 3.The State Represented by the
Secretary to Government
Higher Education Department
Fort.St.George
Chennai

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.2669/E1/2018, dated 23.10.2019 as illegal and quash the same and consequently direct the respondents grant permission to the petitioner's college to fill up the 42 sanctioned non-teaching staff post by considering the proposal dated 08.07.2019 submitted by the petitioner College without any further delay.

For Petitioner : Mr.AL.Kannan

For Respondents :Mr.C.Ramar

Additional Government Pleader



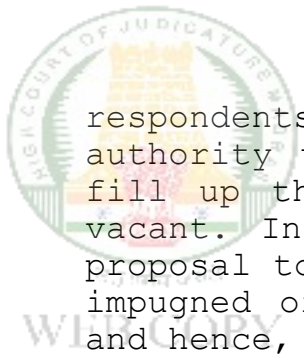
ORDER

This Writ Petition has been filed to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.2669/E1/2018, dated 23.10.2019, as illegal and quash the same and consequently direct the respondents grant permission to the petitioner college to fill up 42 sanctioned non-teaching staff posts by considering the proposal dated 08.07.2019, submitted by the petitioner College without any further delay.

2.The petitioner College is a private aided College. According to the petitioner, 61 Non-teaching posts were sanctioned to the petitioner College. Out of 61 posts, 42 posts are vacant due to retirement, resignation, death and promotion. Each and every post is very essential to run the petitioner College. There is no necessity to obtain prior permission from the respondents to fill up the vacant sanctioned post. By way of abundant caution, the petitioner College submitted proposal dated 08.07.2019, seeking prior permission to fill up 42 sanctioned non-teaching staff post in the petitioner College. The second respondent did not pass any order. The petitioner College filed W.P(MD).No.19777 of 2019 for a direction to the second respondent to grant prior permission to the petitioner College to fill up 42 sanctioned non-teaching staff posts by considering the proposal dated 08.07.2019 submitted by the petitioner College. This Court, by order dated 16.09.2019, considering the judgment of the Division Bench of this Court reported in **2013(7) MLJ 641 (P.Ravichandran Vs.State of Tamil Nadu)**, wherein it was held that as per Rule 11(1) of the Tamil Nadu Private Colleges (Regulation) Rule, 1976, there is no necessity to obtain prior permission, directed the second respondent to grant prior permission to fill up 42 sanctioned non-teaching staff posts, as per proposal submitted by the petitioner College. On receipt of the said order, the second respondent by impugned proceedings, informed the petitioner College that it is not possible for the second respondent to grant prior approval based on the order of this Court and he has forwarded the order of this Court to the first respondent. Challenging the said proceedings, the petitioner has come up with the present writ petition.

3.The learned counsel appearing for the petitioner submitted that as per Rule 11(1) of the Tamil Nadu Private Colleges (Regulation) Rule, 1976, the first respondent is the authority to sanction the posts. But, in case of filling up the sanctioned vacant posts, the second respondent alone is the competent authority and the same need not be forwarded to the first respondent. The learned counsel further contended that there is no necessity for the petitioner to obtain prior permission and the prior permission is now sought for only by way of abundant caution and prayed for allowing the Writ petition.

4.The learned Additional Government Pleader appearing for the



respondents submitted that the first respondent is the competent authority to sanction the posts as well as to grant permission to fill up the sanctioned non-teaching staff posts, when it becomes vacant. In view of the same, the second respondent forwarded the proposal to the first respondent along with order of this Court. The impugned order passed by the second respondent is valid and legal and hence, prayed for dismissal of this Writ petition.

5. Heard Mr.AL.Kannan, learned counsel appearing for the petitioner and Mr.C.Ramar, learned Additional Government Pleader appearing for the respondents.

6. From the materials on record, it is seen that this Court after considering the Judgment of the Division Bench of this Court reported in **2013(7) MLJ 641 (P.Ravichandran Vs.State of Tamil Nadu)**, directed the second respondent to grant permission to the petitioner College to fill up the vacant sanctioned posts of non-teaching staff. If really the second respondent is not the competent authority to grant permission to fill up the said post, the second respondent ought to have come before this Court for modification of the order of this Court, dated 16.09.2019 and to issue a direction to the first respondent to grant permission. From the impugned order of the second respondent, it is seen that the second respondent has stated that he cannot comply with the order of this Court, dated 16.09.2019, which amounts to deliberate disobedience of the order of this Court. In view of the same, the impugned order passed by the second respondent dated 23.10.2019, is set aside. The respondents are directed to grant permission to the petitioner College to fill up the vacant sanctioned non-teaching staff posts, on or before 26.11.2019. If the respondents are not complying with the direction of this Court on or before 26.11.2019, the respondents 1 and 2 are directed to appear before this Court on 27.11.2019. Accordingly, this Writ petition is allowed. No costs.

7. Mr.C.Ramar, learned Additional Government Pleader is directed to inform this order to the respondents and instruct them to act accordingly.

Post the matter on 27.11.2019 for reporting compliance.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)



To

- 1.The Director of Collegiate Education
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- 2.The Joint Director of Collegiate Education
Regional Joint Directorate of Collegiate Education
Palam Station Road, Sellur
Madurai 625 002
- 3.The Secretary to Government,
Higher Education Department,
Fort.St.George
Chennai

Copy to:
The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AL.KANNAN, Advocate (SR-99510[F] dated 19/11/2019)

W.P. (MD) No.23569 of 2019
18.11.2019

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