

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 9174 OF 2013

A.B.Radhakrishnan

.. Petitioner

- Vs -

1. The Director of Collegiate Education
College Road, Nungambakkam
Chennai 600 006.
 2. Sivanthi Adhithanar College, rep.
By its Secretary, Pillyarapuram
Monikattipottal Post, Nagercoil
Kanyakumari District.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to initiate action against the 2nd respondent/Management invoking the relevant provisions of the Act, viz., T.N. Private Colleges (Regulation) Act, 1976, for his defiant attitude of non-reinstating the petitioner as 'Librarian' despite the specific finding arrived at by him that 'the dismissal order issued by the 2nd respondent/college dismissing the petitioner from service has not been approved either by the Competent Authority u/s 19 (1) of T.N. Private Colleges (Regulation) Act, 1976 or by the Appellate Authority in view of the fact that the dismissal from service has not been made as per Rules' or in the alternative directly issuing orders reinstating the petitioner as 'Librarian' with arrears of full salary from September, 2009 and regular salary from November, 2010 by bringing an end to the stalemate caused to the Statutory Order passed by the Competent Appellate Authority pursuant to his proceedings made in R.C. No.57053/2010 dated 26.6.2012.

For Petitioner : Mr. Amalraj

For Respondents: Mr. C.Munusamy, Spl. G.P. for R-1

ORDER

It is the case of the petitioner that he joined as 'Librarian' in the 2nd respondent college and had put in 23 years of unblemished service, which was recognised by the 2nd respondent. However, based on the complaint of a student that he had misbehaved with the said student, the petitioner was placed under suspension and after conduct of enquiry, the petitioner was removed from service, without the approval of the competent authority. Therefore, the 1st respondent passed an order against the 2nd respondent on 26.12.12. Thereafter, the petitioner submitted a representation before the 2nd respondent seeking reinstatement into service and a further representation was also made on 6.7.12. The inaction of the 2nd respondent to pass any orders on the petitioner's representation as also the inaction on the part of the 1st respondent in not getting its order implemented by the 2nd respondent, prompted the petitioner to file the present petition.

2. Learned counsel appearing for the petitioner submitted that the petitioner has been removed from service without the approval of the competent authority and, therefore, the removal from service is invalid and unsustainable. It is further submitted that the 1st respondent, though passed an order against the 2nd respondent, however, has not taken any stringent action against the 2nd respondent for non-compliance of its order. Further, the appeal filed before the 1st respondent complaining about the non-compliance of its order has not been disposed of till date. Therefore, the learned counsel prays for allowing the present petition.

3. On the above contentions, this Court heard the learned Special Government Pleader appearing for the 1st respondent who has no serious objection for a direction to the 1st respondent to dispose of the appeal. None appears for the 2nd respondent.

4. The facts in issue are not in dispute. It is alleged when approval has not been obtained from the competent authority as per the rules envisaged under the Tamil Nadu Private Colleges (Regulation) Act, the order of removal is wholly unsustainable. Furthermore, it is alleged that the 1st respondent has passed an order against the 2nd respondent, which has not been complied with till date. It is incumbent on the part of the 1st respondent to seek for enforcing its order by the 2nd respondent. In this regard, the representation submitted by the petitioner to have the order of the 1st respondent against the 2nd respondent enforced has not been disposed of by the 1st respondent.

5. In the above circumstances, without going into the merits of the issue, this Court directs the 1st respondent to pass orders on the appeal, dated 10.8.12, preferred by the

petitioner within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is disposed of with the aforesaid direction. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

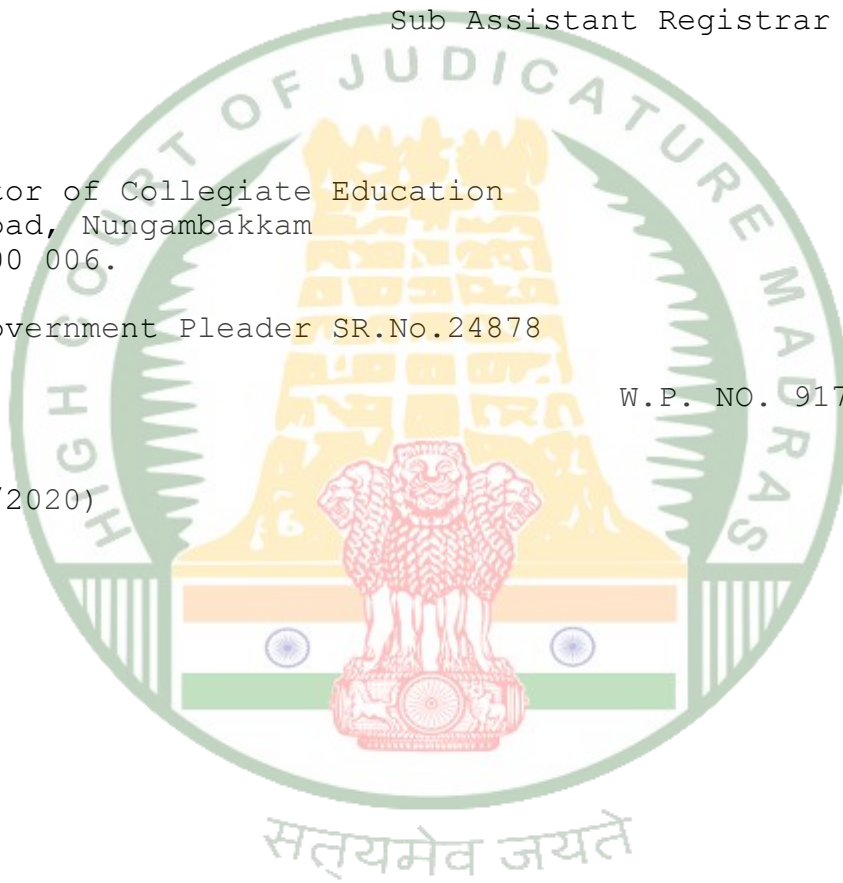
GLN

To
The Director of Collegiate Education
College Road, Nungambakkam
Chennai 600 006.

+1cc to Government Pleader SR.No.24878

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SSD(CO)
GMY(06/08/2020)



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