

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.17249 of 2020

and

W.M.P.No.21326 of 2020

Pachaiyappa's Trust Board,
rep. By its Secretary,
113, Harrington Road,
Chennai - 600 030

... Petitioner

Vs

1. The Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

2. The Directorate of Collegiate Education,
College Road,
Chennai - 600 006.

3. The Joint Director of Collegiate Education,
Chennai Region,
Chennai - 600 015.

..Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records relating to impugned order of the 3rd respondent in Na.Ka.No.7412/U2/2020 dated 20.10.2020 and quash the same and further direct the 2nd and 3rd respondents to give approval for the disbursement of grant-in-aid towards salary for the appointment by transfer of Dr.P.Murugakoothan as Principal of the petitioner's College viz., Pachaiyappa's College, Chennai with effect from 29.05.2020.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel
for M/s.Isaac Chambers

For Respondents : Mr.E.Manoharan,
Special Government Pleader

O R D E R

The matter is taken up through web hearing.

The petitioner is a Trust Board which runs Pachaiyappa's College, Chennai and other Institutions. A vacancy arose in the post of Principal in 2019 in Pachaiyappa's College and in other constituent institutions and a dispute is now pending before the Hon'ble Supreme Court of India as to filling up the posts. The Hon'ble Supreme Court of India, while considering the 'lis' of appointment of Principal to the colleges run by the petitioner Trust has passed an order to maintain status quo. Therefore, the petitioner, as on date, is precluded from filling up the post of Principal in the Pachaiyappa's Trust, Chennai. The petitioner Trust Board, in the meanwhile, decided to transfer one Dr.P.Murugakoothan, who was the Principal of C.Kandaswamy Naidu College for Men, Chennai -102, which was one of the six constituent Colleges under the petitioner's Management and appoint him on adhoc basis, till a regular incumbent is selected and appointed.

2. On consideration of his experience and qualification, the said Murugakoothan was appointed as the Principal of Pachaiyappa's College on 28.05.2020 by transfer.

3. In response to the appointment of the said Murugakoothan as Principal of Pachaiyappa's College on transfer from other constituent college of the Pachaiyappa Trust, the 2nd respondent refused to grant approval in view of the pendency of the dispute as to the appointment of Principals of the constituent Colleges before the Hon'ble Supreme Court of India. The order, rejecting the approval by the 2nd respondent dated 20.10.2020 is the subject matter of challenge in this writ petition.

4. The writ petition was taken up for hearing. At the time of admission on 04.12.2020, on behalf of the Government, strong objection was raised by the learned Special Government Pleader, Mr.E.Manoharan, stating that when the lis is pending before the Hon'ble Supreme Court and the Court has granted status quo, it is not open to the petitioner trust to appoint the Principal of the College in violation of the orders of the Hon'ble Supreme Court.

5. At this, the learned Senior Counsel, Mr.Isaac Mohanlal submitted that the posting of the said Murugakotthan as Principal of Pachaiyappa's College is not to be treated as a regular appointment but to be treated as adhoc only till a decision is taken by the Hon'ble Supreme Court of India and till a regular appointment is made to the post. Therefore, he would submit that the present action of the petitioner would not amount to any violation of the Court's order.

6. However, after perusing the order dated 28.05.2020, this Court expressed its misgiving as to the nature of appointment made by the petitioner trust as ad hoc arrangement as pleaded on behalf of the trust could not be reduced from the contents of the order. The petitioner thereafter, by proceedings on the same day dated 04.12.2020, has clarified as below.

"As sequel to the order of transfer cited in reference, this is issued to make it clear that the transfer of Dr.P.Murugakoothan, Principal, C.Kandaswami Naidu College for Men, Chennai to Pachayappa's College, Chennai, is by way of ad hoc arrangement only for administrative reasons and the same shall be absolutely subject to any further orders in the SLPs. Nos.26631 of 2019 on the file of the Hon'ble Supreme court.

As such Dr.P.Murugakoothan shall not have any claim of vested right in as much as the transfer is only an adhoc measure."

7. On the basis of the above clarification, the learned Special Government Pleader submitted that the impugned order of the 2nd respondent dated 20.10.2020, which was premised only on the understanding of the Government that it was passed in violation of the Hon'ble Supreme Court's interim order, the position as disclosed in the impugned order may not hold good in view of the subsequent clarification issued by the petitioner Trust. Therefore, he submitted that the impugned order would not be acted upon by the Government.

8. In view of the appointment of the said Murugakoothan as the Principal being clarified, leaving no room about the nature of his appointment, this Court finds that nothing survives for further adjudication in this Writ Petition and therefore, the Writ Petition stands closed. No costs. Consequently, connected miscellaneous petitions is also closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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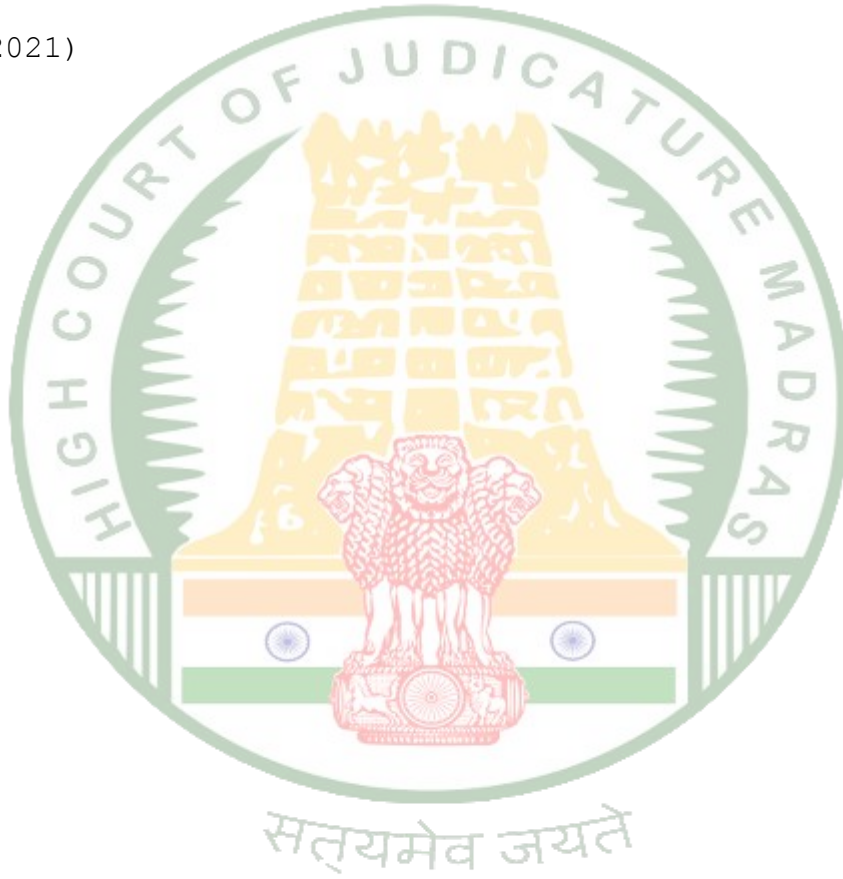
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JP (CO)
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