



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020
CORAM

WEB COPY

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)Nos.532 to 534 of 2020
and
C.M.P(MD)Nos.3703, 3704, 3706, 3707 and 3708 of 2020
in
W.P.(MD)No.22533/2015 to W.P.(MD)No.22535/2015

01.The State represented by,
Principal Secretary to Government,
Higher Education (D1) Department,
Fort St. George, Chennai.

02.The Director of Collegiate Education,
College Road,
Chennai - 600 006. ... Appellants in all Writ Appeals /
Respondents

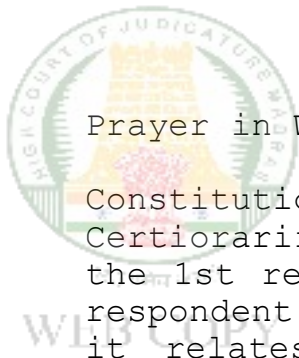
-Vs-

Women's Christian College,
Nagercoil- 629 001,
Rep. by its Correspondent / Secretary,
Prof. V.Suder Raj ... Respondent in W.A(MD)No.532 of 2020 /
writ petitioner

Nesamony Memorial Christian College,
Nagercoil - 629 001,
Rep. by its correspondent/Secretary,
Prof. V.Suder Raj ... Respondent in W.A(MD)No.533 of 2020/
writ petitioner

Scott Christian College (Autonomus),
Nagercoil - 629 003,
Rep. by its Correspondent / Secretary,
Rt.Rev.Dr.G.Devakadaksham ... Respondent in W.A(MD)No.534 of 2020/
writ petitioner

Common Prayer: Writ Appeals - filed under Clause 15 of the Letters
Patent Act, to set aside the judgment dated 27.06.2019 in
W.P(MD)Nos.22535, 22534 and 22533 of 2015.



Prayer in WP(MD). 22533/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records in G.O.Ms.No.219 by the 1st respondent dated 24.10.2013 and the proceedings of the 2nd respondent in Na.Ka.No.17509/G3/2008 dated 13.11.2014 in so far as it relates to the petitioners college and quash the same and consequently direct the respondents to permit the petitioners college to fill up the posts on regular basis and release the grant in aid for 4 post of Office Assistant, 2 post of Watchmen, 2 post of Waterman, 2 post of Gardener, 6 post of Sweeper and 2 post of Scavenger.

Prayer in WP(MD). 22534/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records in G.O. Ms.No.219 by the 1st respondent dated 24.10.2013 and quash the same and consequently direct the respondents to permit the petitioner s college to fill up the posts on regular basis and release the grant in aid for 6 post of Office Assistant, 1 post of Steno Typist, 1 post of Electrician, 1 herbarium Keeper, 1 Library Assistant, 2 Watchmen, 2 post of Gardener, 1 Waterman, 6 post of Sweeper and 1 post of Scavenger, 1 marker.

Prayer in WP(MD). 22535/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records in G.O.Ms.No.219, Higher Education dated 24.10.2013 and quash the same and consequently direct the respondents to permit the petitioners college to fill up the posts on regular basis and release the grant in aid for 1 post of Herbarium Keeper, 2 post of office Assistant, 1 post of mechanic, 1 post of marker, 2 post of watchman, 1 post of waterman, 1 post of Gardener, 4 post of Sweeper and 1 post of Scavenger.

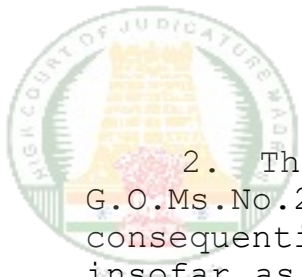
For Appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader

For Respondent : Mr.F.Deepak

COMMON JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.,**]

By consent, these Writ Appeals are taken up for hearing and disposed of by this common judgment.



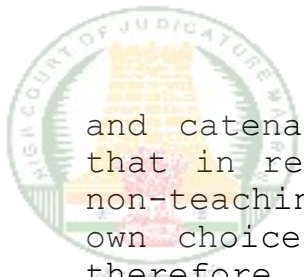
2. The respondents / writ petitioners made a challenge to G.O.Ms.No.219 dated 24.10.2013 passed by the first appellant and the consequential proceedings of the second appellant dated 13.11.2014 insofar as it relates to their institutions are concerned and for a consequential direction, directing the appellants / official respondents to permit them to fill up the Posts of non-teaching staff on regular basis and release the grant-in-aid.

3. The writ petitioners took a stand that all of them are Religious Minority Institutions and as per the right guaranteed under the Constitution of India, they are empowered to administer the Institutions and appointments can be made by them and however, they are bound to follow the minimum educational qualifications prescribed by the University Grants Commission for all such appointments. Approval sought for by them to fill up the sanctioned Posts in respect of non-teaching staff, came to be rejected in the light of the said proceedings and challenging the same, the writ petitions were filed and the same were entertained.

4. The learned single Judge after perusing the materials and taking into consideration the rival submissions, had found that the issue involved in the writ petitions is no longer *res integra* and in the light of the order dated 24.11.2017 in W.P.No.6679 & 6680 of 2016, wherein earlier decisions of this Court reported in 2013 7 MLJ 641 (*P. Ravichandran v. State of Tamil Nadu and others*) and W.P.Nos.14115 to 14119 of 2016 etc. (batch cases), dated 19.08.2016 and yet another judgment dated 01.12.2006 in W.A(MD)No.462 of 2006, found that the impugned orders, negating the approval of appointment to the non-teaching staff, is *per se* unsustainable and therefore, quashed the impugned proceedings and allowed the writ petitions. The official respondents aggrieved by the common order dated 27.06.2019 made in the said writ petitions, had filed these writ appeals.

5.Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants would contend that no doubt, the respondents Institutions are all Minority Institutions, but the fact remains that the official respondents, are having power to oversee the qualifications and other relevant criteria, in respect of the appointments made by the said Institutions to the non-teaching Posts and also points out that grant-in-aid are to be provided to the employees, who are occupying the said posts and as such, they are entitled to oversee the appointments made by the Institutions and it cannot be found fault with by the learned single Judge and having not properly appreciated the same, the learned Judge allowed the writ petitions and hence, prays for interference.

6. Per contra, the learned counsel appearing for the contesting respondents would submit that in the light of time tested principles



and catena of decisions rendered, the learned single Judge found that in respect of Minority Institutions, in respect of sanctioned non-teaching posts, they are entitled to make appointments of their own choice, subject to fulfilment of necessary qualifications and therefore, the learned Judge has rightly concluded that the impugned proceedings are unsustainable and rightly allowed the writ petitions and further points out that in similar facts and circumstances, a Division Bench of this Court vide judgment dated 19.07.2019 in W.A (MD)No.2096 of 2019 (the Secretary, the State of Tamil Nadu, Department of Higher Education, Fort St. George, Chennai - 600 009 and others v. the Secretary, Nirmala College for Women, Coimbatore), dismissed the appeal and hence, prays for dismissal of these writ appeals.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. The respondents are Religious Minority Institutions and it is well settled position of law that in respect of sanctioned non-teaching Posts, they are entitled to fill up the said Posts of their own choice and of course, subject to fulfilment of necessary criteria prescribed by the Government.

9. The learned Judge had surveyed various earlier decisions in this regard and concluded that in the light of the well settled position, the impugned proceeding warrants interference and allowed the writ petitions.

10. This Court on an independent application of mind to the entire materials placed and also considering the rival submissions, is of the considered view that there are no merits in these writ appeals.

11. In the result, these writ appeals are dismissed confirming the order dated 27.06.2019 passed in W.P(MD)Nos.22535, 22534 and 22533 of 2015. No Costs. Consequently, connected Miscellaneous Petitions are closed.

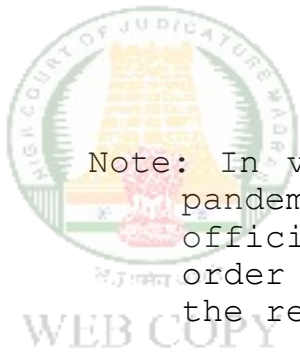
Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

01.The Principal Secretary to Government,
Higher Education (D1) Department,
Fort St. George, Chennai.

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

Judgment in
W.A(MD) Nos.532 to 534 of 2020
06.08.2020

pm
SDS (25.08.2020) 5P-3C