



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.03.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.5058 of 2020 and

WMP(MD) No.4385 of 2020

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The Secretary,
St.Xavier's College (Autonomous),
Palayamkottai - 627 002,
Tirunelveli District.

: Petitioner

Vs

1. The State of Tamil Nadu,
Rep 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,
Palayamkottai - 627 002,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the third respondent Joint Director to approve forthwith the appointment of 5 non-teaching staff in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f the respective dates of their appointments.

For Petitioner : Mr.K.Ragatheeshkumar

For Respondents : For R1 - Mr.K.Mu.Muthu
Additional Government Pleader
For R2 & R3 - Mr.A.Thiyagarajan

O R D E R

This Writ Petition is filed to direct the third respondent Joint Director to approve forthwith the appointment of 5 non-teaching staff in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f the respective dates of their appointments.

2. Mr.K.Mu.Muthu, learned Additional Government Pleader takes notice for the first respondent and Mr.A.Thiyagarajan, learned counsel takes notice on behalf of the respondents 2 & 3. By consent



of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the petitioner college herein namely, the St.Xavier's College, Palayamkottai, is one among the several recognized Educational Institutions owned and administered by the Society of St.Francis Xavier, a body registered under Societies Registration Act. The State Government as well as the Director of Collegiate Education fixed norms for appointment of non-teaching posts. Earlier in the year 1973, the second respondent Director fixed norms for appointment of non-teaching posts in the aided colleges vide R.C.No.42834 S2/72 dated 23.11.1973. As per the revised norms for appointment of Non-teaching posts in the aided colleges vide G.O.Ms.No.796, Educational Department dated 25.07.1985, the college submitted proposals to the third respondent Joint Director for the purpose of getting their appointment approved and disbursement of grant-in-aid towards their salary by letter dated 30.07.2019. But no orders have been passed. Hence, the petitioner college is before this Court with this present Writ Petition seeking the relief to consider the petitioner's representation dated 30.07.2019.

4.The issue involved in this writ petition is covered by the order of this Court in W.P(MD)No.507 of 2019, dated 23.04.2019 **(The Secretary, St.Xavier's College(Autonomous) vs. The State of Tamil Nadu, Represented by its Secretary and others)**, wherein it has been held as follows:

2. The learned senior 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 senior counsel prayed for passing of similar order in this Writ Petition also.

3. The relevant portion of the above said judgment reads as follows:-

"17. A Division Bench of Madurai Bench of this Court in W.A.(MD) No.462 of 2006, judgment dated 01.12.2006, considered the scope of Rule 11(1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 relying upon the earlier order passed on 13.08.2006, 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 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 the following orders of this Court:



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- i. W.P.No.30618 of 2008 order dated 21.09.2005
- ii. W.P.No.28396 of 2004 order dated 29.03.2006
- iii. W.A.Nos.92 & 93 of 2008 judgment dated 06.01.2020
- iv. W.P.No.174 of 2009 order dated 27.04.2010
- v. W.A.Nos.140, 811 of 2006 & 805 of 2007 judgment dated 21.10.2010
- vi. W.A.No.2858 of 2010 judgment dated 21.03.2011
- vii. W.A.No.1088 of 2011 judgment dated 19.10.2011
- viii. W.A.No.2345 of 2011 judgment dated 05.03.2012
- ix. (2012) 5 MLJ 670 (Dr.S.Sukumaran Vs.State of Tamilnadu) rendered by one of us (NPVJ) and
- x. W.A.No.474 of 2013 judgment dated 03.04.2013.

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 & 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...

20. In the light of the above findings as well as the decisions, we conclude this judgment in the following manner:-

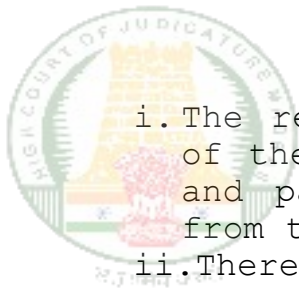
(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules:-

4. The above decision has not been seriously objected to by the learned Special Government Pleader appearing for the respondents.

5. 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 01.12.2016 is hereby quashed and the respondents are directed to approve the appointment of non-teaching staffs on the basis of the proposal sent by the petitioner and disburse the grant-in-aid towards their salary and allowances, within a period of eight weeks from the date of receipt of a copy of this order.

5. Following the same, this Court is inclined to pass the following order:

<https://hcservices.ecourts.gov.in/hcservices/>



- i. The respondents are directed to dispose of the representation of the petitioner by considering the proposal dated 30.07.2019 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this Order.
- ii. There shall be a further direction that while disposing the proposal, the respondents shall not insist on the prior permission, as per the orders passed in W.P.(MD) No.507 of 2019.

6. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

vrn

To

1. The State of Tamil Nadu,
Rep 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,
Palayamkottai - 627 002,
Tirunelveli District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-11016[F] dated 11/03/2020)

+1 CC to SPL.GP (SR-11055[F] dated 11/03/2020)

W.P.(MD) No.5058 of 2020 and
WMP(MD) No.4385 of 2020
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MK (18.03.2020) 4P 6C