



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.12.2020

CORAM

THE HON'BLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) .No.2459 of 2015

and

M.P. (MD) .No.1 of 2015

WEB COPY

The Secretary,
St.Ignatius College of Education,
Palayamkottai - 627 002
Tirunelveli District.

..Petitioner

vs

- 1.The Director of Collegiate Education,
College Road, Chennai - 600 006.
- 2.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.
- 3.Tamil Nadu Teacher Education University,
Rep.by its Registrar,
Lady Willingdon College Campus,
Kamarajar Salai,
Chennai - 600 005

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent Joint Director in Pa.Mu.O.2525/EE2/2014 dated 30.04.2014, quash the same, insofar as it denies approval to the appointment of Rev.Sr.A.Nirmala Devi as Assistant Professor in Education in the Petitioner's College for the period from 20.11.2013 to 04.02.2014 and further direct the Joint Director to give approval forthwith for the said period with continuity of service and all other attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mrs.S.Srimathi
[R1 & R2] Special Government Pleader

For R3 : No appearance

ORDER

St.Ignatius College of Education, Palayamkottai, is a Minority Aided College, run by congregation of the Missionary Sisters of the Immaculate heart of Mary, Tiruchirapalli. This College is fully



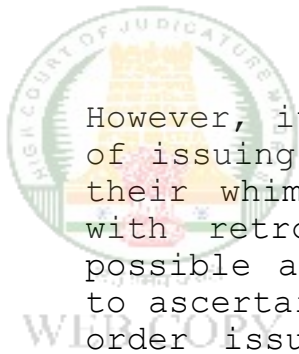
governed by the Tamil Nadu Private Colleges (Regulations) Act and Rules.

2. The writ petition on hand is filed, seeking approval of the appointment of Rev.Sr.A.Nirmala Devi with effect from her initial date of appointment on 20.11.2013 with all monetary benefits. The 1st respondent / Director of Collegiate Education in his proceeding dated 05.02.2014, granted approval of the appointment of the said Assistant Professor with effect from 05.02.2014. The consequential order was issued by the Joint Director of Collegiate Education, Tirunelveli, approving the appointment of the said Assistant Professor Sister A.Nirmala Devi with effect from 05.02.2014.

3. Rule 11(1) of the Tamil Nadu Private Colleges(Regulation) Rules 1976, enumerates that "The number of teachers employed in a college shall not exceed the number of posts fixed by the Director by time to time, with reference to the academic requirements and norms of workload prescribed by the respective Universities and overall financial consideration". If any vacancy arises due to death or retirement, the concerned Management should sent necessary proposal for the revival of such vacancies to the Director of Collegiate Education. On receipt of any such proposal from the Management, the Director of Collegiate Education would review the proposal and pass appropriate orders based on the rules in force at the time of consideration of the proposal. Workload alone is not the criteria for fixation of staff strength. Staff strength may vary from time to time and need not be constant. Thus, Government Directives in this regard considering various factors are to be followed scrupulously by the authorities competent.

4. The learned Special Government Pleader contended that the Management of St.Ignatius College of Education, Palayamkottai was not empowered to make any fresh appointment in any of the vacant post as on 20.11.2013. Thus, the petitioner Management appointed one Sister A.Nirmala Devi at their own accord and therefore, the appointment was made in an unapproved post. The respondents 1 and 2 are no way connected with such irregular appointment made by the petitioner. In fact, the petitioner Management is solely responsible for such irregular appointments in the College. The Educational Qualifications approved by the University concerned are to be scrutinized for grant of approval of appointment. The 3rd respondent University is the competent authority to determine and to grant approval for the Educational Qualification posts by the teaching staffs in Aided Colleges.

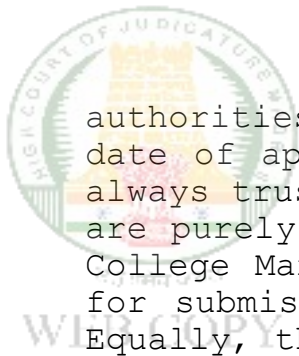
5. Verification of Educational qualifications of the candidates are mandatory for grant of approval of appointment. Thus, necessary verification from the University concerned is to be obtained before issuing an order of approval of appointment. The question may arise in the event of any such verification, the teaching staff appointed from delay in the matter of grant of approval.



However, it is to be considered equally that there is a possibility of issuing an appointment order by the Management of the College at their whims and fancies and claim approval for such appointments with retrospective effect. Various facts and circumstances are possible and it would be practically difficult for the authorities to ascertain the correct position and therefore, mere an appointment order issued by the Management alone cannot be the document to consider the cases for the purpose of grant of approval of appointments.

6. The authorities competent are bound to consider various circumstances leading to the facts, in view of the fact that the grant-in-aid are extended to these Private Colleges from the tax payers money and therefore, the public authorities are duty bound to act cautiously and they are obligated to protect the public money and the public interest as they are accountable to the people of our great Nation. In the event of any excess or false claim over and above the entitlement, the same would cause greater financial loss to the State Exchequer. Thus, a practical and balanced approach is required for the purpose of deciding these nature of issues. One hand, there is a possibility that a Teacher would have been appointed longback and the approval application would have been submitted belatedly. In such circumstances, if the approval is granted from the date of application, then the Teacher would loose salary for the period, in which, he/she worked from the date of appointment. Equally, there is a possibility of predated appointment at the instance of the Management from the date on which the vacancy arouse in a sanctioned post and there is a probability of illegal claims by the Management at their instance in collusion with the teaching staff. All these possibilities and probabilities cannot be ruled out. Thus, the Educational authorities are bound to conduct an enquiry into these aspects but the safer point always would be that the date of application is the best way of grant of approval of appointment. When two probabilities are placed before the Educational authorities, balanced approach would be to grant approval of appointment from the date of application, which would be realistic and would not affect the rights of the persons. Thus, for the period of delay in submission of application, the Teacher can claim salary from the Management and the Government salary will be paid from the date of grant of approval. Thus, pragmatic approach would resolve the problem, if it is applied uniformly all over the State in the matter of grant of approval to the Aided Colleges.

7. Yet another circumstance is to be considered. In the event of any delay in verification of certificates of the teachers appointed in a College from the University concerned, then the competent educational authorities shall grant an interim approval clearly stating that the said interim approval is subject to the verification of the educational qualifications and its genuinity from the University concerned. Contrarily, if there is a delay in approval by the Management itself, then the

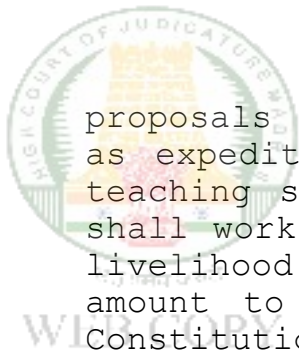


authorities cannot consider the same for grant of approval from the date of appointment order issued by the Management which cannot be always trusted upon in view of the fact that such appointment orders are purely within the domain of the Management concerned. Thus, the College Management shall take responsibility for the delay occurred for submission of the application seeking approval of appointment. Equally, the delay in grant of approval is to be compensated by the Government by granting approval from the date of application. This being the balanced possible approach to be adopted in the matter of grant of approval of appointment to the teaching staff in Aided Colleges, the 1st respondent is bound to issue appropriate circular or instructions to all the competent authorities across the State of Tamil Nadu to ensure that the uniformity, consistency and quick disposal of applications are followed in the matter of grant of approval of appointment.

8. Once an Assistant Professor / Teaching Staff is appointed in a sanctioned vacant post, the Management is at liberty to submit proposals to the competent educational authorities along with all requisite documents and they may make a request for grant of interim approval, so as to protect the rights of the Teachers appointed till the regular approval of appointment is granted. Interim approval is granted subject to the verification of educational qualifications, eligibility, suitability in accordance with the rules and to complete the said formalities. Thus, the delay in verification of documents from the University concerned would not affect the rights of the Teachers. After such verification and ascertaining the genuinity, the interim approval granted shall be confirmed and a regular approval of appointment shall be issued from the date of receipt of the application. Such a method would protect the public interest as well as the interest of the teachers concerned.

9. In the writ petition on hand, the 1st respondent / Director of Collegiate Education, passed an order in proceedings dated 05.02.2014 and the approval was granted from the said date. The Joint Director issued the consequential proceedings on 30.04.2014, granting approval with effect from 05.02.2014. The claim of the writ petitioner is that the approval of appointment is to be granted with effect from 20.11.2013. In view of the discussions made in the aforementioned paragraphs, this Court has no hesitation in arriving at a conclusion that the Assistant Professor Sister A.Nirmala Devi is entitled for her approval of appointment from the date of submission of application on 13.01.2014.

10. The 1st respondent has to follow uniform procedures for the purpose of grant of approval of appointments to the teaching staff in Aided Colleges. If different dates are taken into consideration for grant of approval, it will not only cause anomaly, it would affect the rights of the teachers appointed. If a uniformed decision is taken in a consistent manner, then the rights of the teachers will be protected. It is needless to state that the



proposals submitted by the College Managements are to be processed as expeditiously as possible to avoid unnecessary hardship to the teaching staff appointed. No one can expect that a teaching staff shall work without salary for longtime. The same would affect their livelihood and their right to salary. Thus, such a situation would amount to violation of their personal liberty ensured under the Constitution of India.

11. In view of the facts and circumstances, this Court is inclined to pass the following orders:

(1) The impugned order passed by the 2nd respondent in proceedings in Pa.Mu.O.2525/EE2/2014 dated 30.04.2014 is quashed to the limited extent of approval of appointment with effect from 05.02.2014. Accordingly, the respondents are directed to grant approval of appointment of the Assistant Professor appointed by the writ petitioner Management namely Sister A.Nirmala Devi with effect from 13.01.2014, the date on which the proposal was submitted and consequently, grant of monetary benefits. The said exercise is directed to be done within a period of twelve (12) weeks from the date of receipt of a copy of this order.

(2) The 1st respondent / The Director of Collegiate Education is directed to formulate the uniform procedure for the purpose of grant of approval of appointment to the teaching staff of the Aided Colleges across the State in consonance with the Statutes, Rules and Government Orders as well as the observations made in this order and accordingly, issue a consolidated instructions to the Subordinate authorities, so as to ensure consistency and uniformity in the matter of grant of approval of appointment to the teaching staff.

12. With the above modifications, the present writ petition stands allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

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/ /2021

Sub Assistant Registrar(CS)



To

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli - 627 002.

3.The Registrar,
Tamil Nadu Teacher Education University,
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