

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.422 of 2021

C.Abdul Hakeem College,
Rep. by its Secretary,
Mr.S.Z.Abrar Ahmed,
S/o.Dr.S.Ziauddeen Ahmed,
Hakeem Nagar, Melvisharam,
Vellore-632 509.

... Petitioner

-vs-

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

2. The Regional Joint Director Collegiate Education,
Vellore Region,
43, 1st West Cross Street,
Gandhi Nagar, Vellore-632 006.

.... Respondents

Prayer:

Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents to approve the appointment of the 10 Non-Teaching Staffs, viz., Marker-1, Scavenger-1, Sweeper-4, Watchman-2, Waterman-1 and Gardener-1 in the sanctioned vacancies in the Petitioner's College in the light of the approval given by the 2nd respondent to the similarly placed persons like R.Sorubalatha and 6 others, vide proceedings Pa.Mu.No.4874/A2/2013 dated 28.08.2019 in W.P.(MD) No.1234 of 2014 dated 24.02.2015 in W.A.(MD) No.931 of 2018 dated 12.07.2018 and in Special Leave Petition S.L.P.No.323 of 2019 dated 18.01.2019 with monetary and all other attendant and service benefits based on the representation given by the petitioner college dated 06.11.2019.

For Petitioner : M/s.G.Selvi George

For Respondents: Mr.S.Karthikeibalan
Govt. Advocate

O R D E R

The petitioner has filed this writ petition, seeking a direction to the 1st and 2nd respondents to approve the appointment of the 10 Non-Teaching Staffs, viz., Marker-1, Scavenger-1, Sweeper-4, Watchman-2, Waterman-1 and Gardener-1 in the sanctioned vacancies in the Petitioner's College in the light of the approval given by the 2nd respondent to the similarly placed persons like R.Sorubalatha and 6 others, vide proceedings Pa.Mu.No.4874/A2/2013 dated 28.08.2019 in W.P.(MD) No.1234 of 2014 dated 24.02.2015 in W.A.(MD) No.931 of 2018 dated 12.07.2018 and in Special Leave Petition S.L.P.No.323 of 2019 dated 18.01.2019 with monetary and all other attendant and service benefits based on the representation given by the petitioner college dated 06.11.2019.

2. According to the Petitioner-College, the College was sanctioned with 37 posts of non-teaching staff under the Aided Scheme and the appointments to those posts have been made against the vacancies arising in the sanctioned posts as per the norms and proceedings of the Respondents. It is the case of the petitioner that approval has been granted by the Government only for 286 vacancies out of 486 for the post of Office Assistant and Marker and the other posts were instructed to be filled up through outsourcing vide G.O.Ms.No.219 Higher Education (D1) Department dated 24.10.2013 and the said Government Order was challenged before this Court in W.P.Nos.6679 and 6680 of 2016 and this Court, by an order dated 24.11.2017 set aside the Government Order. Writ Appeal filed against the order of the learned Single Judge dated 24.11.2017 came to be dismissed on 17.09.2019. It is further case of the petitioner that posts of similarly placed persons working in Rajapalayam Raju's college were approved by the 2nd Respondent on 28.08.2019 on the basis of the orders of this Court in W.P.(MD) No.1234 of 2014 dated 24.02.2015, W.A.(MD) No.931 of 2018 dated 12.07.2018 and Special Leave Petition in SLP.No.323 of 2019 dated 18.01.2019. It is submitted by the Petitioner-College that though the issue of approval has already been settled, the proposal sent by the petitioner-college to the 1st respondent through the 2nd respondent dated 06.11.2019 has been kept pending without any sanction.

3. Though learned counsel for the petitioner has stated that the issue is covered by the judgment of this Court dated 12.07.2018 passed in W.A.(MD) No.931 of 2018, it is for the respondents to decide whether the ratio laid in the said judgment is applicable to the case of the Petitioner-College and this Court cannot give a specific direction with regard to the grant of approval.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation / proposal 06.11.2019 is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation / proposal of the petitioner-college, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner-college and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order, in the light of the judgment of this Court dated 12.07.2018 passed in W.A.(MD) No.931 of 2018, if applicable;

ii) In case the representative of the petitioner-college is unable to appear for personal hearing, the representative is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the representative of the petitioner-college fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the representative of the petitioner-college, cannot at a later point of time take a stand that opportunity of being heard is not given to them;

iv) The the representative of the petitioner-college shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation/proposal dated 06.11.2019, and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representations, to the petitioner-college, within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the

petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The Director of Collegiate Education,
College Road,
Chennai-600 006.
2. The Regional Joint Director Collegiate Education,
Vellore Region,
43, 1st West Cross Street,
Gandhi Nagar,
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+1cc to the Government Pleader, S.R.No.15420

W.P.No.422 of 2021

PMK(CO)
CB(27/04/2021)



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