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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A.No.1253 OF 2021
&
C.M.P.No.8013 OF 2021

1. The Pachaiyappa's Trust,
Rep. by the Administrator General
and Official Trustee of Tamil Nadu,
High Court of Madras,
Chennai - 600 104.
2. Er.R.Jayapragasam,
Estate Officer,
Secretary-in-charge,
Pachaiyappa's Trust Board
113, Harrington Road
Chennai - 30.

... Appellants/
RR 3 & 8 in W.P.

Versus

1. Ms.M.Arachelvi
2. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Higher Education Department
Chennai - 600 009.
3. The Advocate General,
Government of Tamil Nadu,
Chennai - 600 104.
4. The Director of Collegiate Education
College Road,
Chennai - 600 006.
5. The Joint Director of Collegiate Education,
Chennai Region, Chennai - 15.

... 1st Respondent/
Writ Petitioner



6. The Joint Director of Collegiate Education
Vellore Region, Vellore.

7. The Association of University Teachers
[Regd Tamil Nadu Joint Action committee of
Pachaiyappa's Trust Board Colleges [JAC-PTBC]],
Rep. by the Chairman Dr.L.C.Thirumalai,
Pachaiyappa's College,
Chennai - 600 030.

... Respondents/
RR 1,2,4 to 7 in WP

PRAYER:-

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.M.P.No.9226 of 2021 in W.P.No.8685 of 2021 dated 09.04.2021.

PRAYER IN W.M.P.NO.9226 OF 2021:-

This Writ Miscellaneous Petition filed under Article 226 of the Constitution of India to pass an order of Interim stay on the operation of the Impugned Order issued by the 3rd Respondent relieving me in R.C.No.A3/1493/2018-III, dated 05.03.2021.

PRAYER IN W.P.NO.8685 OF 2021:-

This Writ Petition filed under Article 226 of the Constitution of India to issue a Writ, Order or Direction in the nature of a Writ more specifically a Writ of Certiorarified Mandamus to call for the records of the Impugned Order in R.C.No.A3/1493/2018-III, dated 05.03.2021 issued by the 3rd Respondent and consequently direct the 3rd Respondent to permit the petitioner to continue as Secretary of the Pachaiyappas Trust Board.

For Appellants : Mr.B.Vijay

For R1 : Mr.Naveen Kumar Murthi

For RR2 to 6 : Mr.C.Munusamy
Special Government Pleader [Edn]

JUDGMENT

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

- (1) By consent, the writ appeal is taken up for final disposal and is disposed of by this judgment.



- (2) Mr.Naveen Kumar Murthi, learned counsel accepts notice on behalf of the 1st respondent/writ petitioner.
- (3) The Hon'ble Mr.Justice P.SHANMUGAM, a former Judge of this Court, was appointed as the Interim Administrator vide orders passed by this court in the relevant legal proceedings and in the capacity, the Interim Administrator, vide various proceedings, had appointed the Secretaries to the Pachaiyappa's Trust, Chennai and also replaced them with some other persons. It is to be noted at this juncture that such appointments had the approval of the jurisdictional Joint Director of Collegiate Education, Chennai.
- (4) The writ petitioner in WP.No.8685 of 2021-the 1st respondent herein, consequent upon resignation of Thiru.A.Natarajan, Secretary [In-charge] of Pachaiyappa's Trust, came to be appointed as Secretary with effect from 10.05.2019 and she was formerly the Joint Secretary to Government, Home Department, Government of Tamil Nadu and she also assumed the charge and her appointment was also approved by the Director of Collegiate Education [Full Additional Charge], vide proceedings dated 10.07.2019 in Mu.Mu.30944/G1/2019-1.
- (5) The Hon'ble First Bench of this Court, vide common judgment dated 23.12.2020 made in OSA.No.346 of 2019 etc., batch, having noted procedural and other violations, had accepted the Affidavit of the Interim Administrator dated August, 2020, and relieved the Hon'ble Judge from the post of the Interim Administrator and in order to ensure that the Trust properties are managed properly, directed that the entire management of the Pachaiyappa's Trust shall be taken over by the Administrator General and Official Trustee [AGOT] of Tamil Nadu, who shall in consultation with the Advocate General of the State, take appropriate steps for administering the Trust and its properties till the learned Single Judge before whom, the matter has been remanded for fresh consideration, decides the matter [paragraph No.135 of the common judgment dated 23.12.2020].
- (6) Accordingly, the AGOT took charge and the said official, vide communication dated 26.02.2021, had issued one month notice to the 1st respondent/writ petitioner on administrative grounds, for the purpose of relieving her from the post of Secretary of the Pachaiyappa's Trust and also issued an advertisement in the leading English and Tamil News Dailies, inviting applications for recruitment to the post of Secretary in the said Trust.



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- (7) The AGOT, vide proceedings dated 05.03.2021 in RC.No.A3/1493/2018-III, by superseding the proceedings dated 01.03.2021, has relieved the 1st respondent/writ petitioner from the post of Secretary, Pachaiyappa's Trust, with immediate effect, with a further direction to hand over the charge with all files and documents to Mr.R.Jayaprakasam, Estate Officer of the Pachaiyappa's Trust, Chennai-30 and he in turn, was directed to perform all the duties of the Secretary of Pachaiyappa's Trust as Full Additional Charge, until further orders. The AGOT proceeded with the selection of the Secretary by inviting applications and through the process of interview, has appointed Mr.C.Duraikannu, as the Secretary vide proceedings dated 05.04.2021 in RC.No.A3/1493/2018-III and Mr.R.Jayapragasam, Secretary [Full Additional Charge] of Pachaiyappa's Trust, has also handed over the charge of the said post to Mr.C.Duraikannu, on 08.04.2021 and as on date, he is performing the said duty.
- (8) The 1st respondent/writ petitioner filed WP.No.8685 of 2021 praying for issuance of a writ of certiorarified mandamus, to quash the proceedings of AGOT dated 05.03.2021 in and by which, she was relieved from the post of Secretary of Pachaiyappa's Trust with immediate effect and pending disposal of the same, prayed for two interim orders, i.e., interim stay of the operation of the impugned order dated 05.03.2021 as well as an order of ad-interim injunction, restraining the 3rd respondent-Trust from proceeding to appoint anybody as the Secretary of Pachaiyappa's Trust pending disposal of the said writ petition.
- (9) The matter was listed for admission on 08.04.2021 and it was adjourned to 09.04.2021. The learned Single Judge had taken up WMP.No.9226/2021 in W.P.No.8685/2021 filed for interim stay and having noted infraction of Rule 9[2] of the Tamil Nadu Private Colleges Regulation Rules, 1976, coupled with the fact that though AGOT, vide proceedings dated 26.02.2021, granted one month time to the 1st respondent/writ petitioner to relieve her from duty, within a short span of time, passed the impugned proceedings, relieved her from the said post and having found that the procedure followed, smacks with arbitrariness and that it is also tainted with mala fide, has passed an order of status quo as on 17.03.2021 and further made it clear that any action taken subsequent to 17.03.2021, shall remain suspended and kept in abeyance.
- (10) Mr.B.Vijay, learned counsel for the appellants would submit that even during the tenure as the Interim Administrator, persons were appointed as temporary Secretaries and they



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were replaced and the jurisdictional officials of the Collegiate Education, has also accorded approval and in the case on hand, the appointment of Mr.C.Duraikannu, as the Secretary, has also been approved and that apart, the said appointment is also purely temporary in nature and which is also subject to the result of the pending litigation before the learned Single Judge. It is the further submission of the learned counsel for the appellants by producing the files before this Court that in pursuant to the advertisement issued in the leading English and Tamil Dailies, applications were received and were processed and two rounds of interviews were conducted and one such interview session was headed by the learned Advocate General himself and after following a fair and transparent procedure, Mr.C.Duraikannu, was selected and appointed as the Secretary and he also took charge and in the light of the interim order of status quo anti, the functions of the post, almost came to a standstill and hence, prays for interference.

(11) Per contra, Mr.Naveen Kumar Murthi, learned counsel appearing for the 1st respondent/writ petitioner would submit that Rule 9[2] of the Tamil Nadu Private Colleges Regulation Rules, 1976, had been given a complete go-by in the light of the fact that for change in Secretaryship, prior approval of the Director of Collegiate Education, has not been taken into consideration and further, drawn the attention of this Court to the communication of the 1st appellant represented by AGOT, dated 26.02.2021 and would submit that though one month notice was given to the 1st respondent/writ petitioner for her reliefment on administrative ground, within seven days the impugned proceedings dated 05.03.2021 came to be passed abruptly, relieving the 1st respondent/writ petitioner from the post of the Secretary and the learned Judge, having rightly noted that the statutory rule infraction coupled with the arbitrary action and mala fide nature of the order, has rightly granted interim order of status quo and further points out that the 1st respondent/writ petitioner was the former Joint Secretary of the Home Department, Government of Tamil Nadu, rendered her sincere and blemishless service and since the impugned order visits her with grave civil consequences, at least an opportunity of putting forth her explanation should have been given; but it has been unjustly denied by the 1st appellant-AGOT who is also a senior level judicial officer and hence, prays for dismissal of this writ appeal.

(12) This Court has carefully considered the rival submissions and also heard the submissions of Mr.C.Munusamy, learned



Special Government Pleader [Edn] appearing for respondents 2 to 6 and perused the materials placed before it.

- (13) The alleged infraction/non-following of Rule 9[2] of the Tamil Nadu Private Colleges Regulation Rules, 1976, and whether the appellants/respondents 3 and 8 in the writ petition, had acted arbitrarily or in a mala fide manner or not, in the considered opinion of the Court, is to be gone into in the writ petition. The fact remains that in pursuant to the advertisement published by the 1st appellant/AGOT in leading English and Vernacular News Dailies, applications were invited and two levels of selection process had been conducted and one such selection process was headed by the learned Advocate General and Mr.C.Duraikannu came to be appointed as the Secretary and a perusal of the typed set of documents would also disclose that the 2nd appellant/8th respondent, who was the Secretary-in-charge, has also handed over the charge to Mr.C.Duraikannu on 08.04.2021 and he is discharging the duty as the Secretary of Pachaiyappa's Trust from that date onwards.
- (14) The learned counsel for the 1st respondent/writ petitioner would submit that as and when a copy of the proceedings of the 1st appellant/AGOT dated 05.04.2021 is given to the writ petitioner/1st respondent, she may be granted an opportunity to amend the prayer in W.P.No.8685/2021.
- (15) If the 1st respondent/writ petitioner is so advised and if it is available to her under law, she is at liberty to do so and this Court is not expressing any opinion in this regard.
- (16) In the light of the fact that Mr.C.Duraikannu had taken charge as the Secretary of the Trust on 08.04.2021 and till the order of Status Quo, has been continuing in the said position, this Court is of the considered view that the said position shall continue until or further orders subject to the modification of the order passed if any, by the Hon'ble Roster Bench. It is also made clear that continuation of Mr.C.Duraikannu, as the Secretary of Pachaiyappa's Trust, is also subject to the result of the writ petition and by virtue of this interim order, neither the 1st appellant represented by AGOT nor the appointee, viz., Mr.C.Duraikannu, can claim any right or equity.
- (17) The learned counsel for the 1st respondent/writ petitioner as well as the learned counsel for the appellants have no objection for suo motu impleading Mr.C.Duraikannu, as the 9th respondent in W.P.No.8685/2021.



(18) Accordingly, Mr.C.Duraikannu, Bluemoon Grandeur, B-Block, Flat-1C, 4th Morison Street, Alandur, Chennai 600 016, is suo motu impleaded as the 9th respondent in WP.NO.8685/2021.

(19) The Registry is directed to suitably amend the cause title in the writ petition.

(20) It is also brought to the notice of this Court that the Hon'ble First Bench of this Court in the common judgment dated 23.12.2020 made in OSA.No.346 of 2019 etc., batch, has directed the listing of the matter the learned Single Judge to whom the matter can be entrusted in view of the directions of the Hon'ble Chief Justice on administrative side. Accordingly, the Hon'ble Mr. Justice M.SUNDAR, in terms of paragraph No.137 of the above cited judgment dated 23.12.2020, has been nominated by the Hon'ble Chief Justice, to take up the matters by way of 'Specially Ordered Cases'.

(21) In the facts and circumstances, this Court requires the Registry to place a Note before the Hon'ble Chief Justice for taking/posting of the writ petition in WP.NO.8685/2021 along with the connected matters before the same Hon'ble Judge.

(22) In the result, the writ appeal stands partly allowed and the impugned order dated 09.04.2021 made in W.M.P.No.9226/2021 in W.P.NO.8685/2021 is modified in terms of the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Administrator General and
Official Trustee of Tamil Nadu,
Pachaiyappa's Trust,
High Court of Madras,
Chennai - 600 104.



2. The Secretary to Government,
The Government of Tamil Nadu,
Higher Education Department,
Chennai - 600 009.
3. The Advocate General,
Government of Tamil Nadu,
Chennai - 600 104.
4. The Director of Collegiate Education,
College Road, Chennai - 600 006.
5. The Joint Director of Collegiate Education,
Chennai Region, Chennai - 15.
6. The Joint Director of Collegiate Education,
Vellore Region, Vellore.
7. The Chairman Dr.L.C.Thirumalai,
The Association of University Teachers
[Regd Tamil Nadu Joint Action committee
of Pachaiyappa's Trust Board Colleges [JAC-PTBC]],
Pachaiyappa's College,
Chennai - 600 030.
8. The Section Officer,
Writ Section,
High Court, Madras. (For Posting)

+1cc to Mr.B.Vijay, Advocate, S.R.No.25868

W.A.NO.1253 OF 2021

SR(CO)
PBS/15/12/2021