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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.22268 of 2021

and

W.M.P.No.23481 of 2021

(Through Video Conferencing)

K.Sekar

... Petitioner

Vs.

1. The Secretary,
Pachaiyappa's Trust,
Chennai - 600 030.

2. The Director of Collegiate Education,
Chennai Region,
Chennai - 600 006.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent in Roc. No.A1/1994/2021, dated 30.09.2021 and to quash the same.

For Petitioner : Mr.G.Murugendran

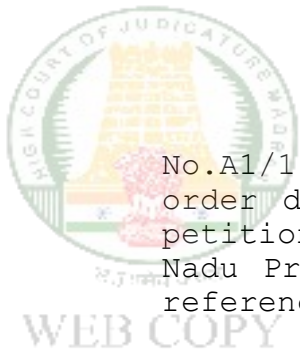
For R1 : Mr.B.Vijay

For R2 : Mr.L.S.M.Hasan Fizal, Govt. Adv.

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent in Roc. No.A1/1994/2021, dated 30.09.2021 and to quash the same.

2. The petitioner has been transferred from Pachaiyappa's College, Chennai-30, to C.Kandaswami Naidu College for Women, Cuddalore on administrative grounds by the first respondent vide impugned order dated 30.09.2021 bearing reference Roc.



No.A1/1994/2021. It is case of the petitioner that the impugned order dated 30.09.2021 in Roc. No.A1/1994/2021 transferring the petitioner was malafide and contrary to Section 8 of the Tamil Nadu Private Colleges (Regulation) Act 1976 and particularly, a reference was made to Sections 11, 14 and 19 of the said Act.

3. The learned counsel for the petitioner submits that the transfer can only be made by the College Committee constituted under Section 11 of the Tamil Nadu Private Colleges (Regulation) Act 1976, and such College Committee should also consist of a senior most Superintendent. It is submitted that the petitioner is the senior most Superintendent of the Pachaiyappa's College, Chennai and therefore the impugned order dated 30.09.2021 in Roc.No.A1/1994/2021 is without merits.

4. That apart, it is submitted that earlier a disciplinary proceeding was initiated against the petitioner which came to be challenged by the petitioner in W.P.Nos.16761 & 28451 of 2019. It is submitted that these Writ Petitions were dismissed and the petitioner has filed W.A.Nos.4112 and 4115 of 2019, wherein, an interim order came to be passed on 06.12.2019.

5. It is submitted that the transfer by the Secretary of the Colleges is contrary to the provisions of the aforesaid act and therefore is liable to be interfered with in this writ petition.

6. Appearing on behalf of the first respondent, Mr.B.Vijay, the learned counsel submits that this Writ Petition is infructuous even at the time of filing of this Writ Petition in as much as the petitioner has already complied with the impugned order and has joined duty at C.Kandaswami Naidu College for Women, Cuddalore on 04.10.2021 which has been suppressed by the petitioner.

7. That apart, it is submitted that the petitioner has been transferred on administrative grounds considering the fact that the petitioner during his long tenure in the said college has indulged in a large scale financial irregularities. It is further submitted that a disciplinary proceeding is pending against the petitioner and continuance of the petitioner at Pachaiyappa's College, Chennai would cause prejudice as the petitioner will interfere with the aforesaid disciplinary proceedings.



8. The learned counsel for the first respondent further submits that the impugned order in Roc.No.A1/1994/2021 dated 30.09.2021 has been passed by the Secretary in terms of Section 12 of the Tamil Nadu Private Colleges (Regulation) Act 1976 and therefore this Writ Petition is liable to be dismissed.

9. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and the learned Government Advocate appearing for the second respondent and perused the impugned transfer order.

10. This Writ Petition filed by the petitioner is without merits in as much as the petitioner cannot interfere with the decision of the College Committee constituted pursuant to an order dated 23.12.2020 of the Division Bench of this Court in O.S.A.No.346 of 2019. As per the aforesaid order in O.S.A.No.346 of 2019, the Administrative General and Official Trustee, the Government of Tamil Nadu has taken charge as Administrator of Pachaiyappa's College Trust. The aforesaid Administrator (AG & OT) has reconstituted the College Committee by invoking the provisions of the Tamil Nadu Private Colleges (Regulation) Act 1976 and the Rules made there under.

11. The impugned order further indicates that a decision was taken by the College Committee on 30.09.2021 to transfer the petitioner from Pachaiyappa's College, Chennai-30 to C.Kandaswami Naidu College for Women, Cuddalore.

12. Considering the fact that the petitioner is facing the disciplinary proceedings, it would be highly improper on the part of the petitioner to remain in the Pachaiyappa's College, Chennai-30 as the presence of petitioner at Pachaiyappa's College, Chennai-30 would hamper the disciplinary proceedings which in any event has now been stayed by the Division Bench of this Court. Even otherwise, the petitioner has served the respondents Pachaiyappa's College, Chennai-30 for over a period of 31 years and cannot have any right to continue in Pachaiyappa's College, Chennai -30.

13. Considering the fact that the trust the Pachaiyappa's Trust has several colleges and the Trust is empowered to transfer its teaching and non-teaching staffs under the provisions of the aforesaid Act, there is no merits in the present writ petition.



14. In view of the above, this Writ Petition is dismissed.
No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rgm / jen

To

1. The Secretary,
Pachaiyappa's Trust,
Chennai - 600 030.
2. The Director of Collegiate Education,
Chennai Region,
Chennai - 600 006.

+1cc to M/s.G.Murugendran, Advocate, S.R.No.54020

+1cc to M/s.B.Vijay, Advocate, S.R.No.54028

W.P.No.22268 of 2021 and
W.M.P.No.23481 of 2021

KSM(CO)
SU(29/11/2021)