



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.11.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.2913 of 2021
and C.M.P.No.19717 of 2021

The Pachaiyappa's Trust
rep by its Secretary,
Pachaiyappa's College Campus,
Chennai - 600 030.

... Appellant

Vs.

1. Dr.Shrimathy Ramalingam
2. Government of Tamil Nadu,
rep by the Principal Secretary to Government,
Department of Higher Education,
Secretariat, Chennai - 600 009.
3. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai - 600 006.
4. The Joint Director of Collegiate Education,
Vellore Region, Vellore - 632 006.
5. Pachaiyappa's College for women,
rep by its Principal,
Kanchipuram - 631 501.
6. The Pachaiyappa's College,
rep by its Principal In-charge,
Pachaiyappa's College Campus,
Chennai - 600 030.

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent
against the order dated 17.11.2021 made in W.M.P.No.25788 of
2021 in W.P.No.24467 of 2021.

Prayer in W.M.P.No.25788 of 2021:

Petition filed under Article 226 of Constitution of
India to grant an ad- interim stay of the proceedings of the
4th Respondent dated 02.11.2021 bearing Ref Roc No.A1 / 2271 /
2021 insofar as the Writ Petitioner is concerned Pending
disposal of the writ petition.



Prayer in W.P.No.24467 of 2021:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records from the 4th Respondent relating to the Proceedings Roc No.A1 / 2271 / 2021 dated 02.11.2021 and quash the same insofar as it orders Transfer of the Writ Petitioner from kanchipuram college to Chennai and vice- versa as illegal arbitrary without jurisdiction, punitive and to consequently direct the Respondents to continue the Petitioners services in the Panchaiyappas College for women Kanchipuram, 5th Respondent herein in the position She was holding prior to the issuance of the impugned proceedings together with continuity of service, monetary and other benefits.

For Appellant : Ms.Dakshayani Reddy

For Respondents : Mr.N.G.R.Prasad (R1)

Mr.S.Arumugam,
Government Advocate (R2 & R3)

JUDGMENT

(Judgment was delivered by M.DURAI SWAMY, J.)

Challenging the interim order passed in W.M.P.No.25788 of 2021 in W.P.No.24467 of 2021, the 4th respondent in the Writ Petition has filed the above Writ Appeal.

2.The 1st respondent/Writ Petitioner filed the Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records from the 4th respondent relating to the proceedings dated 02.11.2021 and to quash the same insofar it orders transfer of the Writ Petitioner from Kanchipuram College to Chennai and vice-versa and consequently, to direct the respondents to continue the Writ Petitioner's services in the Pachaiyappa's College for Women, Kanchipuram - the 5th respondent, in the position she was holding prior to the issuance of the impugned proceedings together with continuity of service, monetary and other benefits.

3.In the said Writ Petition, the 1st respondent/Writ Petitioner also filed an interim petition in W.M.P.No.25788 of 2021 seeking for an order of interim stay of the proceedings of the 4th respondent in the Writ Petition dated 02.11.2021. The learned Single Judge, after hearing the submissions made by the learned counsel for the Writ Petitioner and the learned counsel for the respondents 4 to 6 in the Writ Petition, granted an order of interim stay and posted the matter to 17.12.2021. Challenging the interim stay granted by the learned Single Judge, the 4th respondent in the Writ Petition has filed the above Writ Appeal.



WEB COPY

4.The learned Single Judge ordered notice to the respondents 4 to 6 in the Writ Petition returnable by 17.12.2021. When the learned Single Judge has granted an order of interim stay, which is discretionary in nature and the same has been challenged by way of an appeal before this Court, we are of the considered view that the appellant could have filed an application for vacating the interim stay granted on 17.11.2021 and brought it to the notice of the learned Single Judge the grounds raised in the Writ Appeal. Instead the appellant has filed the Writ Appeal challenging the interim order granted by the learned Single Judge. When the appellant has got remedy before the learned Single Judge by filing a petition for vacating the interim stay, we are not inclined to entertain the Writ Appeal. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

5.Ms.Dakshayani Reddy, learned counsel for the appellant submitted that the 1st respondent/Writ Petitioner has already issued a contempt notice to the appellant and further, submitted that the appellant would file a vacate stay petition before the learned Single Judge for vacating the interim order granted on 17.11.2021 on or before 03.12.2021 and till such time, the 1st respondent/Writ Petitioner may be directed not to precipitate the matter by filing a Contempt Petition.

6.Mr.N.G.R.Prasad, learned counsel for the 1st respondent/Writ Petitioner fairly submitted that the 1st respondent shall not file the Contempt Petition till 03.12.2021.

7.The submission made by the learned counsel for the 1st respondent/Writ Petition is recorded.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

va

To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, Chennai - 600 009.

2. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai - 600 006.



3. The Joint Director of Collegiate Education,
Vellore Region, Vellore - 632 006.

4. The Principal,
Pachaiyappa's College for women,
Kanchipuram - 631 501.

5. The Principal In-charge,
Pachaiyappa's College,
Pachaiyappa's College Campus,
Chennai - 600 030.

+1cc to M/s.Dakshayani Reddy, Advocate SR. No.62794

+1cc to M/s.Row & Reddy, Advocate SR. No. 62369

+1cc to the Government Pleader SR. No.62631

W.A.No.2913 of 2021
and C.M.P.No.19717 of 2021

SSV (CO)
PR (07/12/2021)