



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.1691 of 2020

and W.M.P. (MD) .Nos.1424 & 1425 of 2020

WEB COPY

The Secretary,
Nesamony Memorial Christian College,
Marthandam - 629 165,
Kanniyakumari District.

... Petitioner

Vs.

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

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

3.Manonmaniam Sundaranar University,
rep. by its Registrar,
Abishekapatti,
Tirunelveli District - 627 012.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, Calling for the records relating to the impugned proceedings issued by the 3rd respondent University in Ref.No. MSU/R/CD/Minority Coll. / Selc.Proc./Principal. A.P./2018, dated 17.01.2018 and the consequential proceedings denying Qualification Approval in respect of 3 teachings staffs in Ref. No.MSU/R/CDC/A3 /311/QA/A.P.(Reg.) / Doc.req. Dated 19.08.2019, quash the same and further direct the 3rd respondent Manonmaniam Sundaranar University, to grant Qualification Approval forthwith to the appointment of 3 Assistant Professors (Name List annexed) in the petitioners college in their respective posts w.e.f. their date of appointment viz. 14.11.2018.

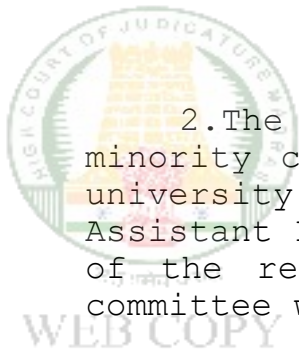
For Petitioner : Mr.K.Ragatheesh Kumar
M/s.Isaac Chambers

For Respondents : Mr.A.Muthukaruppan for R1 & R2
Additional Government Pleader

Mr.M.Mahaboob Athif for R3
M/s.Ajmal Associates

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsels appearing for the respondents.



2.The petitioner herein is a minority institution. When a minority college had submitted a proposal to the third respondent university seeking for qualification approval with respect to three Assistant Professors of their college, the same was returned and one of the reasons cited therein was that minutes of the selection committee was not enclosed.

3.The issue with regard to the applicability of the constitution of a selection committee insofar as a minority institution came up for consideration before the Hon'ble Division Bench of this Court in the case of ***the Forum of Minority Institutions and Associations Vs. State of Tamil Nadu, represented by the Joint Director of Collegiate Education and others*** reported in 2011 (1) CTC 162, wherein, the Hon'ble Division Bench had held that the regulations for constitution of selection committee shall not be applicable to the minority institutions. The relevant portion reads thus:

"60. In view of the settled proposition of law, the contention of learned Counsel for the University Grants Commission that by way of amendment of Regulations, independence has been given to the Minority Institutions to select their own people without outside interference, as the right of appointment of teachers out of qualified teachers is to be left to the Minority Institutions alone cannot be accepted, as the process of selection of teachers cannot regulated, as it would amount to interference in administration of Minority Institutions.

61. The contention of the learned Counsel for the Respondents that Regulations are in public interest to maintain standard of education also cannot be accepted as the appointment of qualified teachers as per the qualification prescribed by the University Grants Commission by the Minority Institutions cannot be said to violate the public interest, nor it can be said that the educational standard would not be maintained.

62. The right of Minority Institutions under Article 30 is absolute right being basic structure of the Constitution and therefore, any regulation interfering with the right of administration would not be applicable to the Minority Institutions, being violative of Article 30(1) of the Constitution.¹

63. The contention that right to administer does not include right to maladministration also cannot be accepted as the Minority Institutions would be bound by qualification laid down for appointment of teachers and also would be bound to follow other statutory laws



necessary for running their institutions to maintain educational standard. The only restriction placed is with regard to the right to interfere in the selection of staff of the Minority Institutions.

64. Once the right of appointment of teachers is taken to be the right of administration, which is not even disputed by the Respondents, no other conclusion than the one that the impugned Regulations would not apply to Minority Institutions can be arrived at.

65. This Court is bound by the law laid down by the Hon'ble Supreme Court even in case where the question is referred to Constitutional Bench as in the case of State of Rajasthan v. M/s. R.S Sharma and Co., 1988 (4) SCC 353, the Hon'ble Supreme Court was pleased to consider question with regard to the applicability of law when the matter stood referred to the Constitutional Bench and it was held as under:

"7. It was contended before us that the question whether on the ground of absence of reasons, the award is bad per se, is pending consideration by a Constitution Bench of this Court in Jaipur Development Authority v. Firm Chhokhamal Contractor, C.A Nos. 3137-39 of 1985, 3145 of 1985. It was, hence, urged that this should await adjudication on this point by the Constitution Bench. We are unable to accept this contention. In our opinion pendency of this question should not postpone all decision by this Court. One of the cardinal principles of the administration of justice is to ensure quick disposal of disputes in accordance with law, justice and equity. In the instant case the proceedings have been long procrastinated. Indeed, the learned Judge of the High Court, after narrating the incidents from 1975 to 1985, concluded in his judgment in March 1988 that was the end of the journey. He was wrong. That was only the end of a chapter in the journey and the appellant wants to begin another chapter in the journey on the plea that the award is not a reasoned one. The bargaining between the parties was entered into in 1974-75 but the award was made on December 8, 1985 i.e a decade after the beginning of the transaction.

For the reasons stated, the Writ Petitions are allowed, and declaration is issued, that the impugned Regulations for constitution of Selection Committee shall not be applicable to the Minority Institutions. Consequently, Writ in nature of Mandamus is issued directing the



Respondents to approve the selection made by the Minority Institutions without reference to Clause 3 of Annexure to UGC Regulations, 2000, subject to the selected candidates fulfilling other qualifications, experience, etc. No costs. Consequently, all the connected Miscellaneous Petitions are closed.

4.The aforesaid findings of the Honourable Division Bench is self explanatory and hence, the respondent university may not be justified in insisting for the constitution of selection committee for the purpose granting qualification approval to the three Assistant Professors of the petitioner's college.

5.In view of the law laid down in the aforesaid decision of the Honourable Division Bench, the impugned proceedings issued by the 3rd respondent University in Ref.No. MSU/R/CD/Minority Coll. / Selc.Proc./Principal. A.P./2018, dated 17.01.2018 and the consequential proceedings denying Qualification Approval in respect of 3 teachings staffs in Ref. No.MSU/R/CDC/A3 /311/QA/A.P.(Reg.) / Doc.req. Dated 19.08.2019 are quashed. Consequently, the petitioner herein is granted liberty to submit a fresh proposal to the third respondent university, seeking for grant of qualification of approval for three Assistant Professors, working in various departments of their college, together with the copy of the present order of this Court and on receipt of the same, the third respondent university shall consider it without insisting for the minutes of the selection committee constituted for this purpose and consider the same on its own merits and take appropriate course of action in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6.This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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

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

+1 CC to M/s.SPL GP (SR-13326[F] dated 24/03/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-13371[F] dated 24/03/2021

W.P. (MD) No.1691 of 2020
23.03.2021

RK (22.04.2021) 5P 5C