



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.2873 of 2019

M.Mohanakani

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by Secretary,
Department of Higher Education,
Fort St. George,
Chennai.

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

3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 007.

4.The CSI Kanyakumari Diocese,
Rep. by its Bishop,
Having Office at 71, Dennis Road,
Nagercoil, Agasteeshwaram Taluk,
Kanyakumari District.

5.The Correspondent cum Secretary,
Scott Christian College,
Nagercoil and Village,
Agasteeshwaram Taluk,
Kanyakumari District.

6.H.Santhosh Kumar

... Respondents

(R - 6 is impleaded vide order, dated 25.02.2019
in WMP(MD)No.2274 of 2019)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to appoint the petitioner for the sanctioned post of Assistant Professor in the Department of History at the fifth respondent College as per the seniority list, dated 31.12.2012 of the Diocese Employment Bureau vide his representation, dated 10.01.2019.

For Petitioner

: Mr.D.Saravanan

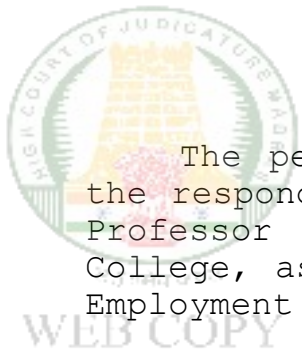
For RR 1 to 3

: Mr.K.S.Selva Ganesan

Government Advocate

For R - 6

: Mr.T.Cibi Chakaraborthy



ORDER

The petitioner has filed the present Writ Petition, to direct the respondents to appoint him for the sanctioned post of Assistant Professor in the Department of History at the fifth respondent College, as per the seniority list, dated 31.12.2012 of the Diocese Employment Bureau, vide his representation, dated 10.01.2019.

2.The learned counsel appearing for the petitioner submitted that the petitioner is a member of CSI Church, Kotticode under the CSI Kanyakumari Diocese. In the year 2011, an amendment was brought in the Constitution of CSI Kanyakumari Diocese to establish a Diocesan Employment Bureau and the same was incorporated in the Constitution. The Employment Bureau will maintain a seniority list of the persons seeking employment in various Institutions run by the fourth respondent in Kanyakumari District. The petitioner is qualified to be appointed as an Assistant Professor in the Department of History in the fifth respondent College.

3.The Church and South India is the distinct Christian denomination with common mode of worship and principles. Members of the Church of South India are territorially divided into 22 dioceses and each diocese is headed by an elected Bishop, who is the spiritual head of the diocese. The Apex body of CSI is the Synod, which has a separate constitution of its own. All the Dioceses have separate Constitutions in conformity with the constitution of Synod.

4.In the year 2012, three self-finance vacancies arose at the fifth respondent College for the post of Assistant Professor in History and the petitioner was in the seniority list at serial No.4. It was the usual procedure that on the date of interview if the first or subsequent candidates do not appear next one from the seniority list will be appointed. The fifth respondent College issued a letter to the petitioner to appear for an interview on 12.12.2012 and the petitioner appeared. However, the Governing Board has not given appointment to the petitioner for the reasons best known to them.

5.Subsequently, the petitioner was informed that the seniority list will be changed once in three months to carry out the changes. According to the petitioner, the clause incorporated in the Constitution only for changing the list for the following reasons:-

- (i) When the candidates not opted for any other appointment.
- (ii) When the candidates got appointment in Government service.
- (iii) When the candidates died or left from the Diocese.
- (iv) Or other circumstances, when the candidates could not found place in seniority list, then the seniority list can be altered.

6.The learned counsel appearing for the petitioner further submitted that without notice to the petitioner, seniority list was altered by bringing the sixth respondent and two others in the



seniority list above the petitioner, who are juniors to him and not fully qualified to be appointed. The petitioner came to know that the fifth respondent is making arrangement to appoint another person in History Department. Hence, he filed a suit in O.S.No.184 of 2014 on the file of the II Additional Sub Court, Nagercoil, for declaration and injunction. Initially, interim injunction was granted and subsequently, the suit was dismissed. The petitioner has also filed I.A.No.144 of 2016 seeking stay and interim stay was granted on 02.04.2016. Subsequently, he filed I.A.No.211 of 2016 seeking stay for 40 days and the said petition was dismissed against which, the petitioner preferred C.R.P(MD)No.1064 of 2016 before this Court and this Court, vide order, dated 19.05.2016, granted an order of interim stay. However, the Administrative Committee Members passed a resolution to appoint the sixth respondent for the post of Assistant Professor in the self-finance section of the Department of History in the fifth respondent College. Hence, the petitioner has filed an appeal before the Principal District Court, Nagercoil, seeking an interim injunction and vide order, dated 04.12.2018, the learned Principal District Judge, Nagercoil, had granted an order of status quo and on 13.12.2018, the Correspondent appeared before the Court below and made an endorsement that the resolution was passed for appointing the sixth respondent as a History Professor and on 13.11.2018, an appointment order was also issued to the sixth respondent. Based on such endorsement, the application filed for injunction was dismissed. The petitioner has given representations, dated 25.01.2018 and 10.01.2019 to the respondents and other office bearers of the Diocese to protect the interests of the petitioner and to appoint persons from the seniority list. So far no action has been taken. Hence, the petitioner has come out with the present Writ Petition.

7.Heard the learned counsel appearing on either side and perused the entire materials available on record.

8.From the materials available on record and the contention of the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the sixth respondent and the documents filed in the typed set of papers, it is seen that the petitioner is seeking a direction to appoint him as Assistant Professor in the Department of History in the fifth respondent College, as per the seniority list, dated 31.12.2012 of the Diocese Employment Bureau, by considering his representation. The petitioner himself has stated that an amendment has been made in the Constitution of the fourth respondent that seniority list will be changed once in three months. According to the petitioner, the seniority list was altered without following the amendment clause incorporated by the fourth respondent. The seniority list altered in the year 2012 was illegal and bias and amount to opening the flood gate for corruption. The petitioner has filed a suit in O.S.No.184 of 2014 on the file of the II Additional Sub Court, Nagercoil and the said suit was dismissed.



According to the petitioner, he filed an appeal before the Principal District Court, Nagercoil and the I.A filed by the petitioner was dismissed, recording the endorsement of the fifth respondent. The petitioner has not furnished any details whether he has agitated further against the dismissal of I.A for injunction and not furnished the details of the appeal. The petitioner has initiated legal proceedings before the civil Court. According to the petitioner, as per the endorsement of the fifth respondent before the Principal District Court, Nagercoil, the sixth respondent was appointed as Assistant Professor in History Department, by passing resolution. In view of such appointment, the petitioner is not entitled to the relief now sought for in the present Writ Petition.

9.For the above reasons, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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.

To

- 1.The Secretary,
Department of Higher Education,
Fort St. George, Chennai.
- 2.The Director of Collegiate Education,
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 007.

+1 CC to M/s.T.CIBI CHAKRABORTHY, Advocate (SR-22077[F] dated 12/07/2021)

+1 CC to M/s.SPL GP (SR-22096[F] dated 12/07/2021)

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