



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No. 13195 of 2021

and

W.M.P. (MD) .Nos. 10205 & 10206 of 2021

WEB COPY

The Secretary,
Bishop Heber College (Autonomous),
Tiruchirappalli - 620 017,
Tiruchirappalli District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Fort St.George,
Chennai - 600 009.

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

3.The Joint Director of Collegiate Education,
Tiruchirappalli Region - 620 023,
Tiruchirappalli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by third respondent Joint Director in Na.Ka.No.1174/C2/2021 dated 19.04.2021, in so far as the reasons at Serial Nos.6 and 11 are concerned, quash the same and direct the third respondent Joint Director to approve forthwith the appointment of 26 teaching staff (Name List annexed) in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f. the respective dates of their appointment.

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

For Respondents : Mr.A.K.Manickam
Standing Counsel.



ORDER

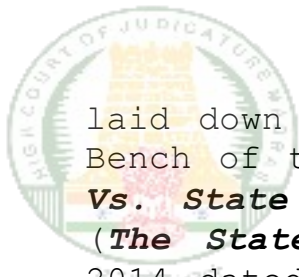
This Writ Petition has been filed by the petitioner, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by third respondent Joint Director in Na.Ka.No.1174/C2/2021 dated 19.04.2021, in so far as the reasons at Serial Nos.6 and 11 are concerned, quash the same and direct the third respondent Joint Director to approve forthwith the appointment of 26 teaching staff (Name List annexed) in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f. the respective dates of their appointment.

2.Heard, Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.A.K.Manickam, learned Standing counsel appearing for the respondents.

3.The petitioner College is one of the oldest and highly reputed college and it is partly aided by the Government of Tamil Nadu. Out of 106 teaching posts under the Aided Scheme, 26 posts have fallen vacant in the recent years and the petitioner college had filled up 25 vacancies on 25.11.2019 and another vacancy on 02.12.2009 respectively. All these appointments have been made against the vacancies arising in sanctioned posts and are well within the staff strength. After making the above appointments, for the purpose of disbursement of grant in aid towards their salary, the petitioner college sent proposals to the 3rd respondent/Joint Director dated 24.03.2021. According to the petitioner, while the petitioner was anticipating the approval of the proposals, it is quite shocking to note that the 3rd respondent vide proceedings dated 19.04.2021 denied the approval mainly on the ground that no prior permission was obtained before resorting to filling up the posts. Later, the petitioner resubmitted the proposals after rectifying the defects pointed out by the 3rd respondent. According to the petitioner, since it is a minority institution, it is entitled to fill up the vacancy arising on account of promotion/retirement/removal or dismissal etc., against a sanctioned post already approved by the authorities, without even obtaining prior permission from the Government. Challenging the impugned proceedings, the petitioner has come forward with the present Writ Petition.

4. It is not in dispute that the issue is well settled now that any school/college, either minority/private/aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal etc., against a sanctioned post already approved by the Educational authorities, without even obtaining prior permission from the Department.

5. In this regard the petitioner has relied upon the ratio
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laid down by the Hon'ble Supreme Court as well as the Division Bench of this Court reported in (2013) 7 MLJ 641 (**P.Ravichandran Vs. State of Tamilnadu**) in WA.No.474 of 2013 dated 03.04.2013, (**The State of Tamilnadu Vs.Dr.S.Sukumaran**) and in WA.No.463 of 2014 dated 02.04.2014 (**Chief Educational Officer and another Vs. S.Christy and Others**) and yet another judgment in W.A.No.2096 & 2124 of 2019 dated 19.07.2019 (**State of Tamilnadu Vs.The Secretary, Nirmala College for Women**). In all these decisions, this Court has elaborately considered and held that the College authorities shall not insisting upon the prior approval for appointment of the teaching staff in the minority institutions and therefore, the aforesaid judgments are squarely applicable to the facts of the present cases on hand.

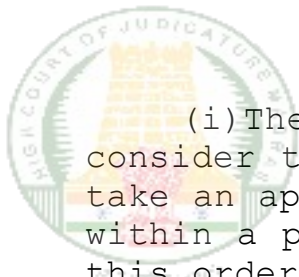
6. When this matter along with similar matters, came up before this Court on the earlier occasions, all the matters have been adjourned with a direction to get instructions from the Director of Collegiate Education as to whether any Circular has been issued to the concerned authorities, directing them to approve the appointment of the teaching staff without insisting upon the prior approval from the minority institutions, in the light of the decisions of the Hon'ble Supreme Court and this Court.

7. Mr.A.K.Manickam, learned Standing counsel for the respondents placed a Circular issued by the authorities vide in R.C.No.31939/E/2021 dated 01.10.2021, relevant portion of the letter is extracted hereunder:

'With reference to the above letter cited it is instructed that prior permission is not necessary for appointment approval for Minority Educational Institutions and it is further instructed not to reject proposals sent by Minority Institutions on the basis of '**Prior permission was not obtained from the appropriate authority**'. The above instructions should be strictly adhered with. Letter from counsel for Government of Tamilnadu is enclosed herewith.'

8. In view of the aforesaid Circular dated 01.10.2021, it is brought to the notice of this Court by the learned counsel for the petitioner College that already proposals were sent and they are still pending with the Joint Director of Collegiate Education.

9. In the light of the aforesaid decisions of the Hon'ble Supreme Court and this Court and also the Circular issued by the Director of Collegiate Education dated 01.10.2021, this Court is inclined to issue the following directions:



(i)The Joint Director of Collegiate Education is directed to consider the said proposals sent by the petitioner College and to take an appropriate decision on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

(ii) The Joint Director of Collegiate Education shall strictly follow the instructions issued by the Director of Collegiate Education by his Circular dated 01.10.2021.

10.With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
State of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai - 600 009.

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

3.The Joint Director of Collegiate Education,
Tiruchirappalli Region - 620 023,
Tiruchirappalli District.

+1 CC to M/s.SPL.GP (SR-31954[F] dated 11/10/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-31688[F] dated 08/10/2021)

W.P(MD)No.13195 of 2021
07.10.2021