



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)Nos.13186 of 2021

and

W.M.P. (MD) .Nos.10197 of 2021

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The Secretary,
St.Xavier's College (Autonomous),
Palayamkottai - 627 002,
Tirunelveli District.

... Petitioner

Vs.

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

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent/ Joint Director to approve forthwith the appointment of Dr.S.Anna Venus as Assistant Professor in Physics in the petitioner's College and disburse the grant-in-aid towards her salary and allowances w.e.f. 01.10.2019.

For Petitioner	:	Mr.K.Ragatheesh Kumar For M/s.Isaac Chambers
For Respondents	:	Mr.A.K.Manickam Standing Counsel.

ORDER

This Writ Petition has been filed, praying for the issuance of a Writ of Mandamus, to direct the second respondent/ Joint Director to approve forthwith the appointment of Dr.S.Anna Venus as Assistant Professor in Physics in the petitioner's College and disburse the grant-in-aid towards her salary and allowances w.e.f. 01.10.2019.

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 Institution, namely, St.Xavier's College (Autonomous), Palayamkottai, is a minority Institution, aided by

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the Government of Tamil Nadu, affiliated to the University of Madras. One post in the cadre of Assistant Professor in the Department of Physics fell vacant on 17.09.2019 due to the voluntary retirement of the then incumbent Rev.Dr.J.Danis Ponniah. In the said vacancy, the Management of the petitioner Institution appointed one Dr.S.Anna Venus as Assistant Professor (Physics) with effect from 01.10.2019. It is a sanctioned post. Necessary proposal was submitted to the 2nd respondent/Joint Director by letter dated 29.03.2021 for approval of the said appointment and disbursement of grant-in-aid towards her salary. But there was no response and hence, a reminder was also sent on 18.06.2021. 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 school authorities, without even obtaining prior permission from the Government. Since there has been no response forthcoming despite proposal submitted and the reminder thereof, 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 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 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 insist 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 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 petition is closed.

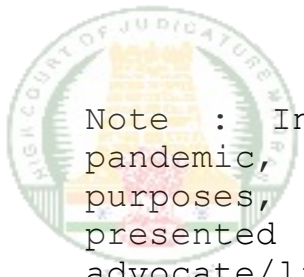
Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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.

WEB COPY

To

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

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 002.
Madurai-625 020.

+1 CC to M/s.SPL.GP (SR-31946[F] dated 11/10/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-31689[F] dated
08/10/2021)

**W.P(MD)No.13186 of 2021
07.10.2021**

RK (08/11/2021) 4P 5C