



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7808 of 2019

and W.M.P. (MD)No.6198 of 2019

WEB COPY

The Secretary,
Arul Anandar College (Autonomous)
Karumathur, Madurai - 625 514.

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. 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,
Madurai Region, Madurai - 625 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent Joint Director in O.Mu.No.13230/Oo3/2018, dated 22.12.2018 (received on 07.01.2019), quash the same and further direct the 3rd respondent Joint Director to approve forthwith the appointment of four Assistant Professors (name list annexed) in the petitioner-college and disburse the grant-in-aid towards their salary and allowances w.e.f. the date of their appointment.

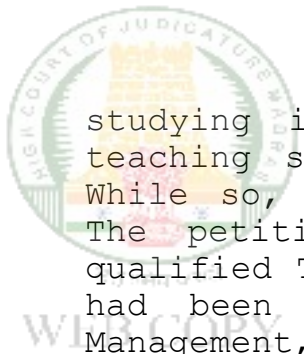
For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.P.Subbaraj,
Government Advocate.

ORDER

The petitioner has filed this Writ Petition challenging the proceedings issued by the third respondent in O.Mu.No.13230/Oo3/2018, dated 22.12.2018 (received on 07.01.2019) and for a direction to the third respondent to approve forthwith the appointment of four Assistant Professors in the petitioner-college and disburse the grant-in-aid towards their salary and allowances with effect from the date of their appointments.

2. According to the petitioner, the petitioner college is a recognized Religious Minority Educational Institution affiliated to the respondent Madurai Kamaraj University. There are 2994 students



studying in the aided sections of the college. There are 54 teaching staff and 22 non-teaching staff in the aided sections. While so, totally four posts of Assistant Professor fell vacant. The petitioner college filled the said four posts with fully qualified Teachers on 18.06.2018 and 01.08.2018. The Teachers, who had been serving in the college for a long time under the Management, were given preference. All the appointments have been made against the sanctioned posts. The incumbents appointed are fully qualified for the respective posts. All the appointments are well within the staff strength fixed by the second respondent in his proceeding dated 28.10.1999. Immediately, after the appointments, the petitioner college submitted proposal to the Madurai Kamaraj University, Madurai, for getting 'Qualification Approval', vide letter dated 27.08.2018. The University granted Qualification Approval to the said four Teachers, vide proceedings dated 15.11.2018. Thereafter, for the purpose of disbursement of grant-in-aid towards their salary, the petitioner-college submitted proposal to the third respondent on 10.12.2018. The third respondent, by his proceeding dated 22.12.2018, refused to approve the appointment of the said four Teachers, stating that no prior permission was obtained from the second respondent for filling up the vacancy. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner relied on the following judgments, in support of his submissions:

(i) **2012 (4) MLJ 918 [C.Manikandan Vs. State of Tamil Nadu, Rep. By Secretary to Government, Department of Higher Education]**, wherein this Court has held as follows:-

"19. Insofar as the other point with regard to the requirement of prior permission before filling up the vacancy is concerned, it is seen that the post of Waterman was sanctioned by the second respondent through his proceedings dated 27.05.1977 and the said post was not resumed and withdrawn later. Therefore, when the petitioner was appointed in the year 1996 by the 5th respondent-college to the post of Waterman, the said post was very much available with 5th respondent-college as a sanctioned post and consequently, when the petitioner was appointed in a sanctioned post by the 5th respondent-college there need not be any prior permission from the respondents 1 to 3 before filling up the said post. The same issue as to whether any prior permission is required before filling up the post in a sanctioned vacancy was considered by a learned Single Judge of this Court in W.P.No.4960 and 14450 of 1997 dated 10.07.2007 (cited supra) and the learned single Judge has held that once the appointment of the person in a sanctioned post is made in accordance with law no prior permission from the Directorate of Collegiate



Education is required. The said order of the learned Single Judge was appealed against in W.A.No.92 and 93 of 2008 and the Hon'ble Division Bench dismissed the Writ Appeals on 06.01.2010 by observing as follows at paragraphs 3 and 4:-

"3.The learned single Judge has dealt with both the above said Writ Petitions together and by following the decision of this Court rendered in W.P.No.28396, dated 29.03.2006, the learned Judge has categorically held that once appointment of a person in a sanctioned post is made in accordance with law, no prior permission from the Director or Collegiate Education is required. While holding so, the learned Judge has quashed the impugned proceedings, dated 28.02.1997 and directed the appellants to approve the writ petitioner's (C.Karunakaran) appointment from 2.7.1990 with all consequential service benefits.

4.In view of the such a categoric conclusion of the learned single Judge which was arrived by him by following the earlier decision of this Court rendered in W.P.No.28396, dated 29.03.2006, we do not find any scope to interfere with the said order, except to confirm the same."

(ii) **2013 (5) LW 514 [P.Ravichandran Vs. State of Tamil Nadu, Rep. By Secretary to Government, Department of Higher Education]**, wherein this Court has held as follows:-

"20. In the light of the above findings as well as the decisions, we conclude this Judgment in the following manner:

(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.

(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.



(4) The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4) (ii).

(5) If there is no rival candidate for any post, the appointment is bound to be approved for the purpose of payment of pay and allowances, by the Regional Joint Director of Collegiate Education.

The writ appeal is disposed of with the above directions. No costs."

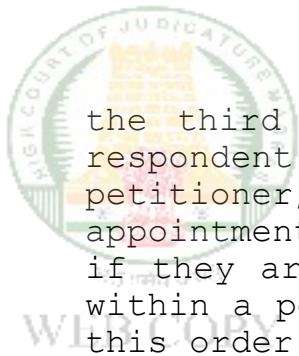
4. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

5. From the above materials available on record, it is seen that the petitioner college is a Private Minority Aided college. Four vacancies arose against the sanctioned teaching posts due to the retirement of previous incumbents. The petitioner college appointed the following persons in the said posts:

S.No.	NAME & QUALIFICATION	DEPARTMENT	DATE OF APPOINTMENT
1	Dr.C.A.S.Raj, M.Sc., M.Phil, Ph.d.,	PHYSICS	18.06.2018
2	Fr.S.Jayaseelan, M.S.W., NET	RURAL DEVELOPMENT SCIENCE (SOCIAL SCIENCE)	18.06.2018
3	Rev.Dr.A.Anto Nelson, M.A., Ph.D.,	PHILOSOPHY	01.08.2018
4	Rev.Dr.C.Lourdu Xavier, M.A., Ph.D.,	PHILOSOPHY	01.08.2018

After such appointments, the petitioner submitted proposal to the Madurai Kamaraj University for getting "Qualification Approval", vide letter dated 27.08.2018, and the University granted Qualification Approval, vide proceeding dated 15.11.2018. Thereafter, the petitioner college submitted proposal for the purpose of disbursement of grant-in-aid towards their salary to the third respondent. But, the third respondent, by the impugned proceedings dated 22.12.2018, returned the same on the ground that no prior permission was obtained for filling up the vacancy from the second respondent. The two judgments relied on by the learned counsel for the petitioner referred to above, makes it clear that no prior permission is necessary for appointment made in a sanctioned vacancy by the Private Aided Minority college.

6. In view of the above judgments, the impugned proceedings of



the third respondent dated 22.12.2018 is set aside and the third respondent is directed to consider the proposal sent by the petitioner, without insisting on prior permission for such appointments and approve the appointments of the persons appointed, if they are otherwise qualified to be appointed in the said posts, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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Sub Assistant Registrar(CS)

vsm

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,
Madurai Region, Madurai - 625 001.

+1 CC to M/s.K.RAGATHEESH KUMAR(ISAAC CHAMBERS), Advocate (SR-23960 [F] dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-23998[F] dated 27/07/2021)

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