



W.P. No. 14876 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 14876 of 2016

and

W.M.P. Nos. 13011 of 2016 and 5502 of 2017

Y.Freeda Consheela

... Petitioner

-VS-

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai – 600 034.

2. The Joint Director of College Education,
Tirunelveli Region,
Tirunelveli – 627 007.

3. The Secretary,
Sarah Tucker College,
Tirunelveli – 627 007.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First and Second Respondents to approve the appointment of the Petitioner in the post of Assistant Professor in Tamil Department at Sarah Tucker College, Tirunelveli from the date of initial appointment dated 18.03.2014 in the sanctioned post as per Rule 11(i) of Tamil Nadu Private Colleges (Regulations) Rules, 1976, and consequentially direct the First and Second Respondents to grant all benefits both service and monetary on the basis of the First Respondent proceedings



W.P. No. 14876 of 2016

dated 13.11.2015 made in Na. Ka. No. 21663/G3/2011 within a date fixed by this Court.

For Petitioner : Mr. V.Paul Panneer Selvam

For Respondents : Mr. V.Jeevagiridharan,
Additional Government Pleader
(for R1 & R2)

No appearance (for R3)

ORDER

Heard Mr. V.Paul Panneer Selvam, Learned Counsel for the Petitioner and Mr. V.Jeevagiridharan, Learned Additional Government Pleader appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First and Second Respondents to approve the appointment of the Petitioner in the post of Assistant Professor in Tamil Department at Sarah Tucker College, Tirunelveli from 18.03.2014 when she was initially appointed in the sanctioned post as per Rule 11(i) of Tamil Nadu Private Colleges (Regulations) Rules, 1976, and to consequently direct the First and Second Respondents to grant all benefits both service and monetary on the basis of the proceedings in Na. Ka. No. 21663/



W.P. No. 14876 of 2016

G3/2011 dated 13.11.2015 issued by the First Respondent within the time limit

that may be fixed by the Court.

3. It is not in dispute that the College of the Third Respondent in which the Petitioner is working is located within the territorial limits of jurisdiction of the Madurai Bench of this Court. The only reason stated for having approached the Principal Seat of this Court instead of approaching the Madurai Bench of this Court is that the office of the First Respondent is situated at Chennai within the territorial limits of jurisdiction of the Principal Seat of this Court. There cannot be any doubt that the First Respondent exercise powers for the whole of the State of Tamil Nadu, but that cannot be said to mean as if the cause of action arises within the territorial limits of jurisdiction of the Principal Seat of this Court.

4. In this context, reference may be made to the decision of the Division Bench of this Court in ***C.Ramesh -vs- Director General of Police, Chennai*** (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), in which it has been held as follows:-

"7. Exercise of jurisdiction is based on arising of the cause of action, either in whole or in part in any one of the said Revenue



W.P. No. 14876 of 2016

WEB COPY

Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTEHRS (2001 (2) SCC 294) and B.STALIN Vs. THE REGISTRAR, SUPREME COURT OF INDIA AND OTHERS (2012 (3) LW 489 (FB))].

8. *It should be remembered that the part of cause of action must be substantial in nature. The territorial jurisdiction of the Court is linked with the place of accrual of cause of action. [See U.P. RASHTRIYA CHINI MILL ADHIKARI PARISHAD, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].*

9. *Referring to KUSUM INGOTS & ALLOYS LTD. Vs. UNION OF INDIA (2004 (3) CTC 365), a Full Bench of this Court in SANJOS JEWELLERS Vs. SYNDICATE BANK, BANGALORE AND OTHERS (2007 (5) CTC 305), held as under:- "30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In*



W.P. No. 14876 of 2016

WEB COPY

appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the Doctrine of forum conveniens. [See BHAGAT SINGH BUGGA Vs. DEWAN JAGBIR SAWHNEY, AIR 1941 CAL 670 : ILR (1941) 1 CAL 490; MADANLAL JALAN Vs. MADANLAL, 1945 (49) CWN 357: AIR 1949 CAL 495; BHARAT COKING COAL LTD. Vs. JHARIA TALKIES & COLD STORAGE (P) LTD., 1997 CWN 122; S.S.JAIN & CO. Vs. UNION OF INDIA, 1994 (1) CHN 445, and NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126].

10. *Question of entertaining a lis disclosing a cause of action or part of cause of action is based on the averments contained in the affidavit etc. At that stage, the truth or otherwise of the averments need not be gone into. But, there must be necessary averments disclosing a cause of action, so that the Court can take cognizance of/entertaining the lis exposed in the petition for taking further action. [See OIL AND NATURAL GAS COMMISSION Vs. UTPAL KUMAR BASU AND OTHERS (1994 (4) SCC 711)]*



W.P. No. 14876 of 2016

WEB COPY

11. *A Court cannot arrogate/assume/confer upon itself a jurisdiction- territorial jurisdiction, when it has no such jurisdiction. Lack of jurisdiction to entertain a matter goes to the root of the matter, otherwise whatever action taken or orders passed by the Court becomes a nullity, it is non est and of no consequence at all resulting in wasting of precious public time. Courts are barred from indulging in hypothetic and academic exercises."*

Having regard to the aforesaid legal position, viz-a-viz, factual matrix of this case, the cause of action for the Writ Petition, viz., for directing the First and Second Respondents to approve the appointment of the Petitioner in the post of Assistant Professor in Tamil Department at Sarah Tucker College, Tirunelveli from 18.03.2014 when she was initially appointed in the post, would have to be necessarily construed as having arisen wholly within the territorial limits of jurisdiction of the Madurai Bench of this Court, notwithstanding that the office of the First Respondent is located in Chennai.

5. When it is pointed out that the Writ Petition cannot be entertained in the Principal Seat of this Court in that backdrop, Learned Counsel for the Petitioner



W.P. No. 14876 of 2016

seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition for the same relief before the Madurai Bench of this Court and he has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petitions are closed. No costs.

11.07.2022

kv

Index: Yes/No

Note: Issue order copy by 25.07.2022.

To

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai – 600 034.
2. The Joint Director of College Education,
Tirunelveli Region,
Tirunelveli – 627 007.
3. The Secretary,
Sarah Tucker College,
Tirunelveli – 627 007.



WEB COPY



W.P. No. 14876 of 2016

P.D. AUDIKESAVALU, J.

kv

W.P. No. 14876 of 2016

11.07.2022