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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition No.29642 of 2012
&
M.P.No. 1 of 2012

1. St.John Sangam Trust
Rep. By Its Chairman And
Managing Trustee
Perambalur-621 212
Perambalur District.

... Petitioner

-Vs-

1. State Of Tamil Nadu,
Rep. By Its Secretary To Government,
Higher Education Department,
Secretariat, Chennai-600 009.

2. The Director,
Of Collegiate Education,
Chennai-600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in Government Letter 1(D) No.123, Higher Education Department, dated 21.5.2012 and quash the same and direct the respondents to confer minority status to Thanthai Hans Roever College of Education, Elambalur, Perambalur, run by the petitioner Trust, from the Academic Year 2011-2012.

For Petitioner : Mr.C.S.Associates
For P.Gonesan

For Respondents : Mr.E.Sundaram, Government Advocate
(for Higher Education)

O R D E R

The petitioner applied for minority status with regard to the College of education taken by it. The respondent have refused to grant minority status following the judgement of P.A.Inamdar Vs. State of Maharashtra , AIR 2005 SC 3226. According to the respondent the college has admitted during the



academic years 2008-09, 2009-10, 2010-11, 2011-12 only 6%, 4%, 5% and 8% of minority students respectively. Therefore, they are not entitled to get minority status.

2. From the perusal of G.O.MS Nos. 270, Higher Education (J1) Department dated 17.06.1998, the Government issued guidelines to dispose of the pending application claiming minority status and also application which will be received in future from educational institution. Para 8 of the G.O reads as under:

" 8. The Government issue the following guidelines to dispose of the pending applications claiming minority status and also applications which will be received in future from Educational Institutions:-

(i)	The object of the educational institutions should be for promoting the interests of the minority concerned and it should subserve the interests of the minority community concerned.
(ii)	Such educational institutions should have been established by the minority and should be continuously administered only by the members of that minority.
(iii)	An educational institution which was originally not established by a minority community cannot acquire such status or character subsequent under any circumstances.
(iv)	All the Trustees or members of the Governing Body of the minority educational institutions shall belong only to the concerned minority.
(v)	In the case of Self-financing educational institutions imparting professional courses of education established and administered by any minority they shall admit students of that minority alone, not exceeding 50% of the sanctioned strength. If there is any vacancy not filled as above such vacancy in that 50% shall be filled up only on the basis of merits and from common merit list prepared by the competent authority.



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(vi)	To decide whether an applicant is a minority or not based on religion or language, the total population of that minority in the State of Tamil Nadu shall be taken into consideration and not the population of the minority in any particular region where the educational institution is situated.
(vii)	In so far as Tamil Nadu State is concerned, any person whose mother tongue is any language other than Tamil shall be considered as linguistic minority in the State and in respect of religious minority, any person whose religion is other than Hinduism shall be considered as a religious minority in the State.

3. As per the above G.O. the criteria of granting minority status to the educational agency is on the basis of objects of promoting the interest of minority. It should have been established by the members of the minority religion and it shall be continuously administered only by the members of that minority. All the trustees and members of the Governing bodies of the minority Education Institution shall belong to that concerned minority.

4. In the instant case, the petitioner has a very long history of coming into existence. Fr. Hans Roever was a devoted Christian and a German Missionary landed in India in 1939 and settled in Perambalur District on 01.02.1947. He started an orphanage with 50 orphan children from different villages at Perambalur and taught them in the field of Social and community development in the villages and he being an ardent Christian belonged to Catholic section. After his demise his disciples have started the petitioner sangam following his foot steps for the development of the Christian Minority. All of them belong to the minority community and they converted the Sangam into a Trust and it was registered under Indian Trusts Act, in the year 1994 and they are running several institutions and the institutions. Those educational institutions which are imparting Engineering and other Arts subjects were recognised as minority institutions.

5. Insofar as, the present institution is concerned, the College for education was granted minority status for the year 2004-05. It is also relevant to note that Civil Court has declared this College as a Minority institution. After granting minority status by G.O.MS. No. 143 Higher Education Department dated 11.04.2003, Government permitted the Educational



Institution to fill up 70% of the seats. Therefore, for all purposes, the petitioner educational institution is a minority institution. It cannot be denied after granting minority status, to the sister Institutions one of the wings, the college of education is not entitled to minority status. Further denying the minority status on a flimsy reason by misreading the judgment of the Hon'ble Supreme Court is also not sustainable.

6. Clause V of the G.O dated 17.06.1998 puts the restriction that the minority institution can admit only 50% of the minority students and the remaining 50% shall be filled up on the basis of the merits from the common merit list prepared by the competent authority. Therefore, the admission to the minorities cannot exceed beyond 50%. But the authority/ the respondent has misread the condition as well as the judgment of the Hon'ble Supreme Court and held that because the Educational Institution admitted only 6%, 4%, 5% and 8% from the years 2008-09 to 2011-12, they are not entitled to minority status is absolutely erroneous and amounts to non application of mind. It is not mandatory for the institution to achieve the quota allotted to it. It can admit the minority students, subject to availability in that area. As long as the educational agency is established and administered by the minorities and run for promoting the interests of the minorities, it is entitled to minority status.

7. Therefore, the impugned order passed by the respondent in Letter 1(D) No. 123, Higher Education Department dated 21.05.2012 does not stand the scrutiny of law and accordingly it is set aside. The respondents are directed to consider the case of the petitioner for giving minority status in the light of G.O.MS Nos. 270 Higher Education Department dated 17.06.1998 pass orders within a period of Eight (8) weeks from the date of receipt of a copy of the order. Accordingly, this writ petition is allowed. There shall be no order as to costs. Consequentially, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sha/kpr

To

1. The Secretary To Government,
State Of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai-600 009.



2. The Director,
Of Collegiate Education,
Chennai-600 006.

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+1cc to Mr.C.S.Associates, Advocate, S.R.No.12735
+1cc to the Government Pleader, S.R.No.12783

W.P.No.29642 of 2012 &
M.P.No. 1 of 2012

GMR (CO)
CT 01/04/2022