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W.P.No. 8842 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No. 8842 of 2020
and WMP.Nos.10740 & 10742 of 2020

The Secretary,
Don Bosco Polytechnic College,
No.106, 'D' Castor Road,
Basin Bridge, Chennai – 600 012.

..Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.
 2. The Commissioner /Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai – 600 015.
 3. The Regional Officer,
All India Council for Technical Education,
The Southern Regional Office, Shasthri Bhavan,
No.26, Haddows Road,
Chennai – 600 006.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for Writ of certiorari, calling for the records relating to the impugned



W.P.No. 8842 of 2020

order issued by the 1st respondent State Government in G.O(D).No.172

Higher Education (B2) Department dated 16.07.2015 quash the same in so far as it restricts the status of the petitioner's college as a Christian Minority Educational Institution to a limited period of 5 years from 2015-2016 to 2019-2020.

For Petitioner : Mr.P.Godson Swaminath
for M/s.Issac Chambers
For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorari to quash the impugned order issued by the 1st respondent State Government in G.O(D).No.172 Higher Education (B2) Department dated 16.07.2015.

2. The petitioner is a polytechnic college duly approved by the competent authority run by a Christian Religious minority Management. Since it is run by a Christian Minority Management, the Management of the petitioner college applied for getting a minority declaration in this regard from the State Government.



W.P.No. 8842 of 2020

3. The said plea raised by the Management of the petitioner Institution having been considered by the Government, an order was passed by the Government in G.O(D).No.172 Higher Education (B2) Department dated 16.07.2015, whereby, the Government has passed the following order:

“5. The Government after careful examination, have decided to accept the proposal of the Commissioner of Technical Education. Accordingly, the Government grant minority status to Don Bosco Polytechnic College, Basin Bridge, Chennai run by the South India Salesian Society for a period of five years from 2015-2016 to 2019-2020 subject to the ultimate guidelines that are to be laid down by the Regular Bench of Supreme court of India based on “Indicia” for treating an educational institution as a minority institution and subject to the condition stipulated in the Government order second read above viz.,

“if any of the minority institutions by commission or omission of any action does anything against the minority status, the head of Department shall bring it to the notice of the Government for the withdrawal of minority status and the Government may take further necessary action for the withdrawal of minority status after giving an opportunity to the institution concerned.”



W.P.No. 8842 of 2020

4. Even though the minority status as sought for by the petitioner has been conferred on the petitioner by the Government through the said G.O.(D).No.172 Higher Education (B2) Department dated 16.07.2015, the period of such status conferred has been restricted only for five years i.e., from 2015-2016 to 2019-2020.

5. Therefore, aggrieved over the said time limit prescribed by the Government through the impugned order dated 16.07.2015 in G.O.(D).No.172, the petitioner has moved the present writ petition.

6. Heard Mr.P.Godson Swaminath, learned counsel appearing for the petitioner, who relied upon many number of judgments passed by this Court in various Divisions Benches and also the order passed by the Hon'ble Supreme Court in this regard and would submit that the law in this regard is well settled, where if the minority status is conferred to any Education Institution either on religious basis or on language basis, such kind of minority status would ever be there unless and until there is a change in constitution of the Management.



W.P.No. 8842 of 2020

7. Therefore, the learned counsel appearing for the petitioner would contend that in view of the settled legal position, the period restricted in the impugned order only for five years for having such minority status to be enjoyed by the petitioner institution is concerned, that is unlawful and therefore that clause has to be interfered with and the respondents are to be directed to pass a revised order without limiting the period of minority status conferred on the petitioner through the impugned order.

8. Heard Mr.D.Ravichander, learned Special Government Pleader, who would submit that, nodoubt that the law is well settled as number of such pronouncements have come. However, insofar as the right of the Government to confer the status of the minority is always vested with the Government, where if there is any change in the Constitution and if there is any violation in the conditions imposed to protect the minorities, then the State Government has got a right to revisit the same, only for enabling the Government to revisit the order already passed in favour of the petitioner conferring the minority status, the period has been restricted, thereafter, it would be renewed at the time of renewal and after having verified the constitution of the Management of the petitioner, the further orders would be passed, therefore, merely because the time limit has been



W.P.No. 8842 of 2020

prescribed by the Government it cannot be stated that after five years period, the petitioner would lose the status of the minority, the learned Government Counsel submitted.

9. I have considered the rival submissions made by the learned counsel appearing for the petitioner and have perused the materials placed before this Court.

10. As has been rightly pointed out by the learned counsel appearing for the petitioner that the issue raised in this writ petition is no more *res-integra*. Plethora of judgments have come from this Court as well as from the Hon'ble Supreme Court as to the status of the minority institution and the conferment of status by the concerned authorities mainly the State Government.

11. Once the minority status is conferred after finding out the composition of the Management of the Education Institution is concerned, such declaration would be for ever unless and until there is a change in composition of the Management body and if it is brought to the notice of the authority to confer such status that authority can revisit and decide



W.P.No. 8842 of 2020

the same depending upon the change of constitution of the Management, without which, the period unnecessarily need not be restricted that minority status declaration in favour of any Education Institution will be only for a limited period. In support of this proposition the following judgments can be usefully pressed into service:

“1. Secretary, Jeyaraj Annapackiam college for Women (Autonomous) Vs. State of Tamil Nadu rep. By its Secretary and Ors. [(2013) 8 MLJ 509]

2. State of Tamil Nadu and anr. Vs. The Secretary/Correspondent, Loyola College (Autonomous) & Anr. [W.A.No.1130 of 2013]

3. The State of Tamil Nadu and Anr. Vs. The Secretary/Correspondent, Loyola College (Autonomous) & Anr. [Rev.Appln. No.236 of 2019]

4. The State of Tamil Nadu Vs. Syed Ammal Engineering College [C.M.P.No.5028 of 2020]

5.The State of Tamil Nadu and Ors. Vs. The Secretary, Auxilium College (Autonomous) [W.A.No.3672 of 2019]

6. The State of Tamil Nadu & Anr. Vs. The



W.P.No. 8842 of 2020

Secretary/Correspondent Loyola College (Autonomous) &

WEB COPY *Anr.[SLP (C).No.10188 of 2022]*

12. The various Division Benches of this Court at various point of time have reiterated the aforesaid legal position and in view of the said settled legal position, this Court has no hesitation to hold that the period restricted by the respondent through the impugned order i.e., only for a period of five years the minority status would be there for the petitioner is concerned, that is unlawful and unjustifiable and therefore, only to that extent, this Court is inclined to interfere with the impugned order.

13. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That the period restricted for minority status conferred on the petitioner institution through the impugned Government order viz., G.O(D).No.172, Higher Education (B2) Department dated 16.07.2015 for a period of five years from 2015-2016 to 2019-2020 is hereby set aside. As a sequel, there shall be a direction to the respondent to pass a revised order without restricting the period of minority status already conferred on the petitioner by the



W.P.No. 8842 of 2020

impugned order.

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- ◆ It is made clear that it is open to the respondent Department at any time to revisit the same, if any adverse notice has been given to them with regard to the change in composition of the Management body and if there is any violation of the conditions imposed to protect the minorities for the purpose of whom the institution has been primarily started and being run.
- ◆ The needful as indicated above shall be undertaken by the respondents by passing a revised order within a period of eight(8) weeks from the date of receipt of a copy of this order.

With this direction, this writ petition is ordered accordingly. No costs. Connected miscellaneous petitions are closed.

28.09.2022

Index : Yes/No

Speaking Order: Yes/No

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WEB COPY



W.P.No. 8842 of 2020

R.SURESH KUMAR, J.

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To

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Department of Higher Education,
Fort St. George, Chennai – 600 009.
2. The Commissioner /Director of Technical Education,
Directorate of Technical Education,
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3. The Regional Officer,
All India Council for Technical Education,
The Southern Regional Office, Shasthri Bhavan,
No.26, Haddows Road,
Chennai – 600 006.

W.P.No.8842 of 2020

28.09.2022