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W.P. No. 26050 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

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

W.P. No. 26050 of 2022

Madura College

... Petitioner

-VS-

1. The Director of Collegiate Education,
Saidapet,
Chennai – 600 015.

2. The Regional Joint Director of Collegiate Education,
Madurai Region,
Madurai – 625 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to permit the Petitioner College to fill up the sanctioned posts of 15 non-teaching staffs viz., Gardener – 2, Watchman -2, Waterman – 2, Sweeper – 5, Scavenger - 1 and Marker -3 in the sanctioned vacancies in Petitioner's College in the light of the order of this Hon'ble Court made in W.P. (MD) No. 1234 of 2014 dated 24.02.2015 in W.A. (MD) No. 931 of 2018 dated 12.07.2018 which has been confirmed the Hon'ble Apex Court in SLP. No. 323 of 2019 dated 18.01.2019 by considering the Proposal/ Representation given by the Petitioner College dated 15.06.2022 and to approve the said appointments.



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For Petitioner : Ms. A.V.Bharathi

For Respondents : Mr. J.Manoharan,
Additional Government Pleader

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ORDER

Heard Ms. A.V.Bharathi, Learned Counsel for the Petitioner, Mr. J.Manoharan, Learned Additional Government Pleader who takes notice for the 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 Respondent to consider the representation dated 15.06.2022 made by the Petitioner for permitting the College of the Petitioner to fill up the sanctioned posts of 15 non-teaching staffs in the sanctioned vacancies.

3. It is not in dispute that neither the College of the Petitioner nor the office of the Second Respondent are situated within the territorial limits of the jurisdiction of the Principal Seat at Chennai of this Court. Though the office of the First Respondent is situated at Chennai within the jurisdictional limit of Principal Seat of this Court, there cannot be any doubt that the First Respondent



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exercises powers for the whole of the State of Tamil Nadu, but that cannot be said to mean as if part of the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai.

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 Districts. [See RAJASTHAN HIGH COURT ADVOCATES' ASSOCIATION Vs. UNION OF INDIA AND OTHERS (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,



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LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC

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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 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*



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NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL

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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)].*

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.*



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Courts are barred from indulging in hypothetical and academic

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Having regard to the aforesaid legal position *viz-a-viz* factual matrix of this case, the cause of action for the Writ Petition, would have to be necessarily construed as having arisen wholly outside the territorial limits of jurisdiction of the Principal 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 seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition before the Madurai Bench of this Court and she has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty.

No costs.

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Index: Yes/No

Note: Issue order copy by 11.10.2022.



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P.D. AUDIKESAVALU, J.

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