



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)No. 66 of 2022
and C.M.P.(MD).No.827 of 2022

The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
Poompozhil,
No.5, Green Ways Road,
Chennai 600 028.

.. Appellant

Vs

1.R.Palaniappan

2.The Secretary,
Law Department,
Secretariat Fort St. George,
Chennai-09.

3.The Secretary,
Ministry of Backward Classes,
Most Backward Classes to Minorities,
Social Welfare Department,
Fort St. George,
Chennai 600 009.

.. Respondents

Writ Appeal filed under Clause 15 of Letter Patent, against the order passed by this Court, dated 19.01.2022 in W.P.(MD).No.143 of 2022.

Prayer in WP(MD). 143/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned notification dated 26.12.2021 issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent to issue fresh notification notifying the vacancies and the respective reservation for the teaching posts and non - teaching posts in accordance with the Tamil Nadu Government special reservation of Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services under the State) Act, 1993 (Act 45 of 1994)



For Appellant : Dr.A.Thiyagarajan
Senior counsel for
Mr.K.P.S.Krishna Doss
For Respondents : Mr.Murugendran
for Mr.S.Sankar
for R1

: Mr.Veera Kathiravan
Additional Advocate General
assisted by
Mr.S.R.A.Ramachandran
for R2 and R3

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 19 January 2022 recorded on W.P.(MD) No. 143 of 2022. This appeal is by the third respondent - University.

2. Challenge in the writ petition was to the notification dated 26.12.2021 issued by the appellant University, inviting applications to fill up vacancies in different teaching / non-teaching posts like Professor, Associate Professor, Assistant Professor (of different subjects) etc. The challenge was principally to the stipulation providing internal reservation of 10.5% to Vanniyar Community under the category of Most Backward Classes. According to the petitioner, the said stipulation was in conflict with the law declared by this Court vis-a-vis the Tamil Nadu Government Special Reservation for Backward Classes, Scheduled Castes and Schedules Tribes [Reservation of Seats in Educational Institutions].

3. Learned Single Judge has allowed the petition, holding the said part of the stipulation i.e., regarding internal reservation of 10.5% to Vanniyar Community under the category of Most Backward Classes being in conflict with the law pronounced by the Division Bench of this Court vide judgment dated 01.11.2021 recorded on batch of petitions being W.P. Nos.15679 of 2021, W.P(MD) No.6619 of 2021 and cognate petitions.

4. Learned advocate for the appellant University has submitted that, the advertised posts need to be filled in by the University and therefore the process undertaken pursuant to the advertisement dated 26 December 2021 should have been allowed to go ahead. During the course of arguments, it is also submitted by learned advocate for the University that, the reservation provided in the impugned advertisement for MBC(V) candidates, is to meet with the eventuality of reservation of 10.5% to Vanniyar Community under the category of Most Backward Classes being in conflict with the law pronounced by the Division Bench of this Court vide judgment dated 01.11.2021 recorded on batch of petitions being W.P. Nos.15679 of 2021, W.P(MD) No.6619 of 2021 and cognate petitions. 19574 of 2021 being allowed by the Supreme Court.



It is submitted that the order passed by learned Single Judge be interfered with.

5. On the other hand, learned advocate for the contesting respondent - original writ petitioner has submitted that, though the policy of the State providing for reservation for MBC (V) is already set aside by the Division Bench of this Court vide judgment and order dated 01.11.2021 recorded on batch of petitions being W.P.No.15679 of 2021 and cognate matters and though the stay against the said judgment is refused by the Supreme Court vide order dated 16.12.2021, the notification incorporating that reservation (which is set aside by this Court) is no less than the contempt of this Court. It is submitted that even if the aspect of contempt of Court is not gone into by this Court, it is the backdoor implementation of the said policy by the State through the University and therefore no interference be made by this Court in the order passed by the learned Single Judge. It is submitted that the appeal be dismissed.

6. Learned Additional Advocate General has assisted the Court on behalf of the State Authorities by stating that, though according to State, interference in the policy of the State by the order of the Division Bench dated 01 November 2021 was unwarranted and being aggrieved by it the State has also filed S.L.P, however till that order stands, the impugned notification dated 26 December 2021 issued by the University can not be sustained.

7. Having heard learned advocate for the respective parties and having considered the material on record, this Court finds that, when it comes to filling up of vacancies - that too in Universities, generally no interference is made by this Court, however, whether that recruitment is in accordance with law or not, on that point, there can not be any dispute that the said appointment has to be in accordance with law. Learned Single Judge has, in substance, while interfering with the notification of the University dated 26 December 2021 held that, the University may proceed further with the recruitment in accordance with law. We do not find that, there is any error in the view expressed in the impugned order. Any interference in the said decision therefore is not required.

8. The argument of learned advocate for the University that the advertisement dated 26 December 2021 need not be interfered with, since according to him, it keeps provision of the eventuality of the S.L.P being allowed by the Supreme Court, not only needs to be rejected, the said contention would land the authorities of the University in such a position, that going by their own stand they would be exposed to the consequences of taking action which is not only inconsistent with the law, but is in straight conflict with law. Consequence thereof may be many, including proceedings under the Contempt of Court Act.



9. At this stage, learned advocate for the appellant University seeks permission to withdraw this writ appeal. The University cannot be permitted to act like this. Therefore permission to withdraw this appeal is rejected.

10. This writ appeal is dismissed. No costs. Consequently, connected C.M.P. would not survive.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv/33

To

1.The Secretary,
Law Department,
Secretariat Fort St. George,
Chennai-09.

2.The Secretary,
Ministry of Backward Classes,
Most Backward Classes to Minorities,
Social Welfare Department,
Fort St. George,
Chennai 600 009.

3.The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
Poompozhi,
No.5, Green Ways Road,
Chennai 600 028.

+1 CC to M/s.S.SANKAR, Advocate (SR-5164[F] dated 09/02/2022)

+1 CC to M/s.SPL.GP (SR-5744[F] dated 11/02/2022)

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