



W.P(MD)No.10732 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.10732 & 10733 of 2021

and

W.M.P(MD)Nos. 8352, 8353, 8354 & 8356 of 2022

A.Maria Ignatius ... Petitioner in W.P.(MD)No.10732 of 2021

A.Irudayaraj ... Petitioner in W.P.(MD)No.10733 of 2021

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Higher Education Department,
Fort St.George,
Chennai-600 009.

2.The Director of Collegiate Education,
D.P.I.Campus, College Road,
Nungambakkam, Chennai-600 006.

3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

4.St.Xavier's College,
Rep. by its Secretary,
Palayamkottai,
Tirunelveli-627 002.

... Respondents 1 to 4 in both W.Ps.

5.Twin Antony Edward,
Head of the Department,
Department of English,



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St.Xavier's College,
Palayamkottai,
Tirunelveli-627 002.

... 5th Respondent in W.P.(MD)No.10732 of 2021

6.A.C.Iganatius Xavier,
Head of the Department,
Department of Tamil,
St.Xavier's College,
Palayamkottai,

Tirunelveli-627 002. ... 5th Respondent in W.P.(MD)No.10733 of 2021

Prayer in W.P.(MD)No.10732 of 2021 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 4th respondent dated 20.04.2021 impugned order passed by the 4th respondent dated 23.04.2021 and the impugned order passed by the 4th respondent in Ref.Sec.Staff. Appt/HOD Appt/Eng./June/1/2021, dated 31.05.2021 and quash the same and direct the 4th respondent to designate the petitioner as Head of the Department of English.

Prayer in W.P.(MD)No.10733 of 2021 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 4th respondent dated 20.04.2021 impugned order passed by the 4th respondent in Ref.Sec.Staff. Appt/HOD Appt/Tamil./June/1/2021, dated 31.05.2021 and quash the same and direct the 4th respondent to designate the petitioner as Head of the Department of Tamil.

For Petitioner : Mr.R.Subramanian

For R1 to R3 : Mr.N.Satheeskumar
Additional Government Pleader

For R4 & R5 : Mr.K.Ragatheeshkumar
for M/s.Isaac Chamber



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COMMON ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondents.

2. The issue raised in these writ petitions is whether the college management was justified in overlooking the seniority of the writ petitioners and designating the respective fifth respondents as the Head of the Department of English and Tamil respectively. The issue on hand is *no longer res integra*.

3. It has been already answered in the decisions reported in **2001 (2) CTC 84** (*The Principal and Secretary Madras Christian College East Tambaram Vs. Dr.M.Shams & another*), **2011 Writ L.R.308** (*The Secretary Vs. The State of Tamil Nadu*) and an un-reported decision in **2011 SCC Online Mad 2330** (*S.Kuppusamy Vs. The Director of Collegiate Education*). All the three decisions rely on G.O.Ms.No.1785, Education Department, dated 05.12.1988. Clause 4(vii) of the said G.O is as follows:-

“(vii) The senior most person in the Department of College irrespective of his Ph.D qualification will be nominated and designated as “Senior Lecturer Selection Grade Lecturer Reader and Head of the Department” by the Director of Collegiate Education and that no special pay will be allowed to that post.”



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4. The learned Additional Government Pleader appearing for the Government and the learned counsel appearing for Department totally endorse the stand taken by the learned counsel appearing for the petitioners.

5. The only stand taken by the learned counsel appearing for the college management is that the aforesaid decisions ought not to be followed in view of the subsequent notification dated 12.02.2018 issued by the University Grants Commission (Conferment of Autonomous Status Upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges), Regulations, 2018. The learned counsel relies on Clause 3.9 which reads as follows:-

“3.9. They shall have complete administrative autonomy and have the privilege of appointing their own Administrative staff and teaching faculty including Principal. However, the staff will be appointed as per UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulations, 2010 as amended from time to time.”

6. The only question that arises for consideration is whether the aforesaid decisions as well as G.O.Ms.No.1785, Education Department, dated 05.12.1988 can be ignored in view of clause 3.9 of University Grants Commission (Conferment of Autonomous Status Upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges), Regulations, 2018.



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As rightly pointed out by the learned counsel appearing for the petitioners, 2018 Regulations relating to Conferment of Autonomous Status have not superseded the earlier notification.

7. I carefully went through the notification dated 12.02.2018. I do not find any repeal or modification clause. On the other hand, clause 9.6 reads that all the Regulations notified by UGC shall be followed in letter and spirit by all the Autonomous Colleges and an undertaking to this effect shall be uploaded on the College website. Therefore, the latest notification dated 12.02.2018 has to be read in harmony with the earlier notification. The learned counsel appearing for the petitioner draws my attention to the decision reported in **2011 SCC Online Mad 2330 (S.Kuppusamy Vs. The Director of Collegiate Education)**. There is yet another aspect. Even clause 3.9 relied on by the learned counsel appearing for the petitioner speaks only of privilege of appointing their own Administrative staff and teaching faculty including Principal. We are not concerned with appointment to any post as such. We are concerned only with designation of the senior-most person in the teaching faculty as the Head of the Department. The Government has issued G.O.Ms.No.1785, Education Department, dated 05.12.1988 that the senior-most faculty of the department will be designated as the Head of the Department. In case after case, the



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Hon'ble Division Bench held that the senior most faculty will have to be nominated and designated as the Head of the Department. It has also been held that the minority college management are also bound to follow the aforesaid requirement. The impugned orders are not in consonance with G.O.Ms.No. 1785, Education Department, dated 05.12.1988.

8. In this view of the matter, respectfully following the decisions relied on by the learned counsel appearing for the petitioners, the impugned orders are quashed. The college management is directed to appoint the senior most teaching faculty in the respective department as the Head of the Department. Such an order will be issued within a period of five weeks from the date of receipt of a copy of this order.

9. The Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To



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1. The Principal Secretary,
Higher Education Department,
Fort St. George,
Chennai-600 009.
2. The Director of Collegiate Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai-600 006.
3. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

G.R.SWAMINATHAN, J.

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