



W.P.(MD)No.15197 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.15197 of 2022

and

W.M.P.(MD)No.10894 of 2022

Scott Christian College,
Represented by its Secretary,
Er.S.Byju Nizeth Paaul,
S/o.Mr.Simson,
Kodiyur,
Mulagumodu Post,
Kanyakumari District.

... Petitioner

Vs.

1. The Director of Collegiate Education,
College Road,
Chennai - 600 006.
2. The Joint Director of Collegiate Education,
Tirunelveli Region,
Palayamkottai,
Tirunelveli District - 627 002.
3. Manonmaniam Sundaranar University,
Represented by its Registrar,
Abishekapatti,
Tirunelveli District - 627 012.

... Respondents



W.P.(MD)No.15197 of 2022

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the third respondent, Manonmanium Sundaranar University, to grant Qualification Approval forthwith to the appointment of 8 Assistant Professors (Name List annexed) in the petitioner's College in their respective posts with effect from their date of appointment viz., 24.03.2020, 07.09.2020 and 14.09.2020.

For Petitioner : Mr.A.Amala

For Respondents : Mr.A.Kannan
Addl. Govt. Pleader for R1 and R2
M/s.Ajmal Associates for R3

ORDER

The relief sought for in the present Writ Petition is to direct the third respondent / Manonmanium Sundaranar University, to grant Qualification Approval forthwith to the appointment of 8 Assistant Professors in the petitioner's College in their respective posts with effect from their date of appointment viz., 24.03.2020, 07.09.2020 and 14.09.2020.



W.P.(MD)No.15197 of 2022

WEB COPY

2. The learned counsel for the petitioner submitted that the petitioner College, namely, Scott Christian College at Nagercoil, is one among the several recognized educational institutions owned and administered by Kanyakumari Diocese Church of South India. It is a Minority Educational Institution under Article 30 of the Constitution of India. The various teaching posts in the College fell vacant in 2019 and 2020. The College filled those posts with the eligible candidates in the year 2020. As per the Diocesan Norms, the candidates who worked in the Self-financing section was given due preference. The appointments have been made against the vacancies, which arises out of the sanctioned posts. The incumbents are fully qualified for their respective posts. The appointments are well within the staff strength fixed by the first respondent. The petitioner College submitted a proposal to the third respondent University for seeking Qualification Approval, vide letter dated 02.11.2020. Thereafter, the third respondent sent letters, dated 23.02.2021 and 14.02.2022, directing the petitioner College to submit the additional documents regarding the copy of the Newspaper Advertisement for



W.P.(MD)No.15197 of 2022

approving the qualification of the said 8 Assistant Professors. The petitioner College sent a reply, dated 06.06.2022 to the third respondent along with additional documents to approve the qualification of the said 8 Assistant Professors. The proposal of the petitioner's College was neither considered nor rejected by the third respondent. The petitioner came to understand that the proposal of qualification sent by Nesamony Memorial Christian College, Marthandam, was rejected by the third respondent on the ground that the Selection Committee was not constituted as per the UGC norms and that was challenged by way of Writ Petition in W.P.(MD)No.1691 of 2020 dated 23.03.2021. This Court was pleased to quash the order on 19.08.2019 and consequently, directed the third respondent to accord qualification approval without insisting for the minutes of the Selection Committee.

3. It is further submitted that the petitioner College is the Minority Educational Institution and constitutionally guaranteed with the absolute right of administration including appointment of qualified staffs on its own as provided under Article 30 of the Constitution of India and any regulations restricting such absolute right is illegal and unconstitutional. While so, the



W.P.(MD)No.15197 of 2022

proceedings of the third respondent again directed the Minority Colleges to constitute Selection Committee and the Newspaper Advertisement in terms of UGC Regulations 2018 on the presumption that this issue was not considered by this Court in the Judgment reported in **2011 (1) CTC 162 [The Forum of Minority Institutions and Associations vs. State of Tamil Nadu, represented by the Joint Director of Collegiate Education and others]**.

4. Thus, learned counsel for the petitioner prays for the direction directing the third respondent to consider granting the qualification approval for the appointment of 8 Assistant Professors and pass orders.

5. Mr.A.Kannan, learned Additional Government Pleader takes notice for the respondents 1 and 2 and submitted that the petitioner's claim may be considered in the light of the Judgment reported in **2011 (1) CTC 162 [The Forum of Minority Institutions and Associations vs. State of Tamil Nadu, represented by the Joint Director of Collegiate Education and others]**.



W.P.(MD)No.15197 of 2022

WEB COPY

6. For better appreciation, with regard to constitution of a selection committee insofar as minority institution is concerned, the relevant portion in the Judgment reported in **2011 (1) CTC 162 [The Forum of Minority Institutions and Associations vs. State of Tamil Nadu, represented by the Joint Director of Collegiate Education and others]** is extracted hereunder:-

"60. In view of the settled proposition of law, the contention of learned Counsel for the University Grants Commission that by way of amendment of regulations, independence has been given to the minority institutions to select their own people without outside interference, as the right of appointment of teachers out of qualified teachers is to be left to the minority institutions alone cannot be accepted, as the process of selection of teachers cannot regulated, as it would amount to interference in administration of minority institutions.

61. The contention of the learned Counsel for the Respondents that regulations are in public interest to maintain standard of education also cannot be accepted as the appointment of qualified teachers as per the qualification prescribed by the



WEB COPY



W.P.(MD)No.15197 of 2022

University Grants Commission by the minority institutions cannot be said to violate the public interest, nor it can be said that the educational standard would not be maintained.

62. The right of minority institutions under Section 30 is absolute right being basis structure of the Constitution and therefore, any regulation interfering with the right of administration would not be applicable to the minority institutions, being violative of Article 30(1) of the Constitution.

63. The contention that right to administer does not include right to maladministration also cannot be accepted as the minority institutions would be bound by qualification laid down for appointment of teachers and also would be bound to follow other statutory laws necessary for running their institutions to maintain educational standard. The only restriction placed is with regard to the right to interfere in the selection of staff of the minority institutions.

64. Once the right of appointment of teachers is taken to be the right of administration, which is not even disputed by the Respondents, no other conclusion than the one that the impugned regulations would not apply to minority institutions can be arrived at.



W.P.(MD)No.15197 of 2022

WEB COPY

65. This Court is bound by the law laid down by the Hon'ble Supreme Court even in case where the question is referred to Constitutional Bench as in the case of State of Rajasthan v. R.S. Sharma and Co. reported in MANU/SC/0497/1988 : (1988) 4 SCC 353, the Hon'ble Supreme Court was pleased to consider question with regard to the applicability of law when the matter stood referred to the Constitutional Bench and it was held as under:

"7. It was contended before us that the question whether on the ground of absence of reasons, the award is bad per se, is pending consideration by a Constitution Bench of this Court in C.A. Nos. 3137-39 of 1985, 3145 of 1985 - Jaipur Development Authority v. Firm Chhokhamal Contractor. It was, hence, urged that this should await adjudication on this point by the Constitution Bench. We are unable to accept this contention. In our opinion pendency of this question should not postpone all decision by this Court. One of the cardinal principles of the administration of justice is to ensure quick disposal of disputes in accordance with law, justice and equity. In the instant case the proceedings have been long procrastinated. Indeed, the learned Judge of the High Court, after narrating the incidents from 1975 to 1985, concluded in his judgment in March 1988 that was the end of the journey. He was wrong. That was only the end of a chapter in the journey and the Appellant wants to begin another



WEB COPY



W.P.(MD)No.15197 of 2022

chapter in the journey on the plea that the award is not a reasoned one. The bargaining between the parties was entered into in 1974-75 but the award was made on December 8, 1985 i.e. a decade after the beginning of the transaction."

For the reasons stated, the writ petitions are allowed, and declaration is issued, that the impugned regulations for constitution of selection committee shall not be applicable to the minority institutions. Consequently, Writ in nature of Mandamus is issued directing the Respondents to approve the selection made by the minority institutions without reference to Clause 3 of annexure to UGC Regulations 2000, subject to the selected candidates fulfilling other qualifications, experience etc. No costs. Consequently, all the connected miscellaneous petitions are closed."

7. It is seen from the Judgment that regulationa for constitution of selection committee is not applicable to the minority institutions. Therefore, this Court directs the third respondent to consider and grant qualification approval for the appointment of 8 Assistant Professors from the date of their appointment on the basis of the dictum laid in the form of minority



W.P.(MD)No.15197 of 2022

WEB COPY

institution in the case of *The Forum of Minority Institutions and Associations vs. State of Tamil Nadu, represented by the Joint Director of Collegiate Education and others* reported in *2011(1) CTC 162*, on merits and in accordance with law as earliest possible within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2022

Index : Yes / No

Speaking Order : Yes / No

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W.P.(MD)No.15197 of 2022

To

1. The Director of Collegiate Education,
College Road,
Chennai - 600 006.
2. The Joint Director of Collegiate Education,
Tirunelveli Region,
Palayamkottai,
Tirunelveli District - 627 002.
3. The Registrar,
Manonmaniam Sundaranar University,
Abishekapatti,
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WEB COPY



W.P.(MD)No.15197 of 2022

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vji/ps

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