



W.P. No.7763 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

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

W.P. No.7763 of 2023

and

W.M.P. Nos. 7968 to 7970 of 2023

1. Dr. S.Kavin
2. Dr. S.Sundar
3. Dr. S.Johny
4. Dr. S.P.Mathavan
5. Dr. S.Lakshmanan
6. Dr. N.Suthendren
7. Dr. A.Vijayalekshmi
8. Dr. T.K.Suvitha
9. A.Elango
10. Dr. S.Premalatha
11. J.Helen
12. Dr. B.Bexel
13. R.Sahaya Sudha



W.P. No.7763 of 2023

14. Dr.N.Bama

15. Dr. Dialin J.Dev

16. A.Rathnakumar

17. P.Vasanthi

18. Dr.Jaslin J. Christopher

19. Dr. K.Jemila Rose

20. M.Sheriba

21. E. Shiny Edmund

22. Dr. D.Sharmila

23. Dr. M.J.Jarald Brigit Gilda

24. Dr. K.Jemila

25. C.Meenakshi

26. Dr. M.Nagarajan

27. Dr. G.Janita Christobel

28. L.T.Saji

29. T. Revathi

30. Dr.S.Santha Kumari

31. Dr. R.Santhi

32. R.Arulpa Pepin Raapitha

33. Dr. D.Jenisha



W.P. No.7763 of 2023

34. Dr. A.R.Sindhu

WEB COPY

35. I. Kannan

... Petitioners

-VS-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Fort St. George, Chennai – 600 009.
2. The Director/Commissioner of Collegiate Education,
DPI Complex,
College Road, Chennai – 600 006.
3. The Joint Director of Collegiate Education,
Gandhi Nagar, Pazhayapettai Road,
Thirunelveli District – 627 008.
4. Manonmaniam Sundaranar University,
Rep. by Registrar,
Abishekapatti,
Thirunelveli District – 627 012.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, direction calling for the records of the minutes of the meeting held on 01.11.2022 and 02.11.2022 held in the chamber of the Principal Secretary of the First Respondent sent along with the letter having reference No.Letter No.10829/G1/2022 dated 09.11.2022 and quash the decision relating to the permanent/temporary staff appointed by the Universities may be allowed to continue in converted Government Colleges on deputation basis till such time the posts are filled up by Director of Collegiate Education in so far as the Petitioners are concerned and issue a direction to the Second and Third Respondents to forthwith call the



W.P. No.7763 of 2023

Petitioners for certificate verification and regularize the services of the Petitioners in the post of Assistant Professors from the date of their initial appointment as Temporary Assistant Professors in the Constituent College of the Fourth Respondent University and fix them in the time scale of pay on par with directly appointed Assistant professors as per the UGC norms in various University and fix them in the time scale of pay on par with directly appointed Assistant Professors as per the UGC norms in various Universities.

For Petitioners : Mrs. Nalini Chidambaran
for Ms. C.Uma

For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 to R3)

ORDER

Heard Mrs. Nalini Chidambaran, Learned Senior Counsel for the Petitioners, Mr. B.Vijay Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners in this Writ Petition had been working as Assistant Professors in the Constituent College of the Fourth Respondent viz., Manonmaniam Sundaranar University, whose office is situated at Tirunelveli within the territorial limits of jurisdiction of the Madurai Bench of this Court.



W.P. No.7763 of 2023

WEB COPY

3. It is the case of the Petitioners that they are entitled to the benefit of regularization with time scale of pay after the Constituent College in which they had been working has been converted as Government Arts and Science College at Kanyakumari by G.O. Ms. No. 184, Higher Education (G1) Department dated 11.12.2020 issued by the Government of Tamil Nadu, but such benefit has been denied by them as per the minutes of the meeting held on 01.11.2022 and 02.11.2022 by the First Respondent with the Registrars of the Universities, which is challenged in this Writ Petition.

4. The only reason stated by the Petitioners for approaching the Principal Seat of this Court instead of Madurai Bench is that the office of the First and Second Respondents are located at Chennai within the territorial limits of jurisdiction of this Court. There cannot be any doubt that the First and Second Respondents exercise powers for the whole of the State of Tamil Nadu, but that cannot be said to mean as if the cause of action has arisen within the territorial limits of jurisdiction of the Principal Seat of this Court at Chennai. Even if it is assumed that a part of cause of action has arisen within the territorial limits of jurisdiction of this Court, the principle of *forum conveniens* would come into play as held by the Division Bench of this Court in **C.Ramesh -vs- Director**



W.P. No.7763 of 2023

General of Police (Order dated 06.06.2013 in W.P. (MD) No. 8790 of 2013), 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, LUCKNOW Vs. STATE OF U.P. AND OTHERS (1995 (4) SCC 738)].*

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:-*



WEB COPY

"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 NEW HORIZONS LTD. Vs. UNION OF INDIA, AIR 1994 DEL 126]."

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



W.P. No.7763 of 2023

WEB COPY

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. Courts are barred from indulging in hypothetic and academic exercises.”

Having due regard to the aforesaid factual matrix of this case, the cause of action for the Writ Petition would have to be necessarily construed as having arisen only outside the territorial limits of jurisdiction of the Principal Bench of this Court notwithstanding that the offices of the First and Second Respondents are located at Chennai. Though obvious, it is made clear that no



W.P. No.7763 of 2023

view has been expressed by this Court on the merits of the controversy involved in the matter.

4. 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 Petitioners seeks permission of the Court to withdraw this Writ Petition with liberty to file fresh Writ Petition for the same relief before the Madurai Bench of this Court and he 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.

15.03.2023

2/2

skr

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.05.2023

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai – 600 009.



W.P. No.7763 of 2023

2. The Director/Commissioner of Collegiate Education,
DPI Complex,
College Road, Chennai – 600 006.
3. The Joint Director of Collegiate Education,
Gandhi Nagar, Pazhayapettai Road,
Thirunelveli District – 627 008.



WEB COPY



W.P. No.7763 of 2023

P.D. AUDIKESAVALU, J.

skr

W.P. No.7763 of 2023

15.03.2023

2/2