



W.P.(MD) Nos.1137 and 2050 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.1137 and 2050 of 2020

and

W.MP(MD)Nos.900, 1723 and 1724 of 2020 and
15375 and 15675 of 2021

W.P.(MD) No.1137 of 2020

Joshua Educational and Charitable Trust,
Rep. by its Chairman
S.A.Joy Raja
Residing at
Raj Bhavan II,
Therekal Puthur,
Nagercoil-629 901,
Kanyakumari District.

... Petitioner

Vs.

1.The Agricultural Production Commissioner and
Secretary to Government,
Agricultural Department,
Secretariat,
St.George Fort,
Chennai-9.

2.Tamil Nadu Agricultural University,
Rep by its Registrar,
Coimbatore.



W.P.(MD) Nos.1137 and 2050 of 2020

3.The Vice Chancellor and Chairman,
Board of Management,
Tamilnadu Agricultural University,
Coimbatore.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned show cause notice made in No.Dy.Regr. (Affln.)/TIAC/Minority Status/Students Admission/2019 dated 24.12.2019 issued by the second respondent and quash the same.

For Petitioner : Mr.Isacc Mohanlal
Senior Counsel
for Mr.P.R.Prithiviraj

For R1 : Mr.D.Ghandiraj
Special Government Pleader

For R2 & R3 : Mr.A.Thirumurthy

W.P.(MD) No.2050 of 2020

M.I.Ahamed Yasin Educational and Charitable Trust,
Rep by its Chairman,
D.No.729, 6th Cross, 7th Street,
Kamaraj Nagar,
Melakavery Post,
Kumbakonam,
Thanjavur District.

... Petitioner



W.P.(MD) Nos.1137 and 2050 of 2020

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Department of Agriculture,
Fort St.George,
Chennai.

2.The Tamil Nadu Agricultural University,
Rep by its Registrar,
Coimbatore-641 003.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records relating to impugned proceedings issued by the second respondent in his proceedings in No.Dy.Regr.(Affln.)/TIAC/Minority Status/Students Admission 2019-20, dated 02.01.2020 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For R1 : Mr.M.Ramesh
Government Advocate

For R2 : Mr.A.Thirumurthy



W.P.(MD) Nos.1137 and 2050 of 2020

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COMMON ORDER

The petitioners before this Court are minority institutions. They have challenged the show cause notices issued by the second respondent university, dated 24.12.2019 in the case of the petitioner in W.P(MD) No. 1137 of 2020 and 02.01.2020 in the case of the petitioner in W.P(MD)No.2050 of 2020. In the impugned notices, the second respondent has called upon the petitioners to show cause as to why their minority status should not be revoked as they have committed a gross-violation of the guidelines of the Government in G.O(Ms)No.270, Higher Education (J1) Department, dated 17.06.1998, by not only admitting the few students belonging to the minority category, but admitting students belonging to non-minority category in the management quota of 50%, which is exclusively intended for the students belonging to the Minority Category. Since the matter revolves only around the above issue, I do not intend to traverse through the contents of the writ petitions.

2. In its counter affidavit in both the writ petitions, the first



W.P.(MD) Nos.1137 and 2050 of 2020

respondent has, at the outset, stated that the writ petitions challenging the show cause notices cannot be maintained as it is premature. They would further submit that in the case of the petitioner in W.P(MD) No.1137 of 2020 for the Academic Year 2017-2018, out of 30 seats allotted for Christian Minority, the trust had only admitted 14 Christian Minority students and the remaining 16 seats were filled by non-minority students. The same violation has happened in the following years upto 2021-2022 and the similar arguments has also been placed in the case of the petitioner in W.P(MD) No.2050 of 2020 in respect of students belonging to the Muslim Community. Therefore, the first respondent would submit that since the petitioners have filled less than 50% of the seats allotted to minority students, the very purpose of having the minority status stands defeated that appears to be the genesis for issuing the impugned show cause notices.

3. The second respondent university has filed their counter along with vacate stay petitions, wherein they have also reiterated the contentions made by the first respondent. The second respondent has further submitted that a policy decision has been taken by the



W.P.(MD) Nos.1137 and 2050 of 2020

Government to constitute an Empowered Committee under the Chairmanship of the Chief Secretary with eight Secretaries as members for scrutiny of the applications for conferment of Minority Status to Educational Institutions by Directorate of Minorities Welfare. The first meeting of this Committee has been convened on 03.05.2023 and therefore, the process of conferring Minority Status to Educational Institutions is under way. In view of the very limited issue posed for consideration of this Court, I do not propose to extract in detail the other averments made in the respective counter statements.

4. Mr.Isaac Mohanlal, learned senior counsel appearing for the learned counsel for the writ petitioner in W.P(MD) No.1137 of 2020 would submit that the Government had passed G.O.(Ms)No.270, in which guidelines had been provided to dispose of the pending applications claiming Minority Status and also application which should be received in future from Educational Institutions. This Government Order was passed on 17.06.1998. He would further submit that as per para No.6 of the Government Order, it was made clear that these guidelines were only a stop-gap arrangement, till such time as the



W.P.(MD) Nos.1137 and 2050 of 2020

decision of the Larger Bench of the Hon'ble Supreme Court relating to minority issues is finally decided. He would further submit that the Larger Bench had decided the issue in its judgment in ***T.M.A.Pai Foundation and others Vs State of Karnataka and Others***, reported in ***(2002) 8 SCC 481***. Therefore, he would argue that in the light of Para No.6 of the Government Order, the guidelines would be no longer in force. Without prejudice he would further submit that even assuming that guidelines are applicable, Clause 8(v) would say that in case the 50% seats kept aside for minority students are not filled up, the very Government Order gives the management the right to fill up the remaining from and out of the common merit list, which is prepared by the competent authority. Therefore, he would submit that there is absolutely no violation and the show cause notice has to necessarily be set aside.

5. The learned senior counsel would also place reliance on a similar issue considered by the learned Single Judge of this Court in WP(MD) No.5175 of 2014, wherein the learned Judge has, after relying upon G.O(Ms)No.270, Higher Education (J1) Department, dated



W.P.(MD) Nos.1137 and 2050 of 2020

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17.06.1998 and the Judgments in ***P.A.Inamdar and Others Vs. State of Maharashtra and Others*** reported in (2005) 6 SCC 537 and ***Pramati Educational and Cultural Trust and Others Vs Union of India and Others*** reported in ***AIR 2014 SC 2114***, held that the State has no power to impose any quota or percentage of admission in an unaided minority professional institution. He would also rely upon the observation of the learned Judge in the judgment in ***T.M.A.Pai Foundation's case*** and submit that G.O(Ms)No.270 is in violation of the aforesaid judgment.

6. Mr.M.Ajmalkhan, learned senior counsel appearing for the learned counsel for the petitioner in WP(MD)No.2050 of 2020 would add that the respondents have not contended that the petitioner has inducted the students outside the list contemplated under the provisions of Clause 8(v).

7. Mr.D.Ghandiraj, learned Special Government Pleader appearing for the first respondent in W.P(MD) No.1137 of 2020 and Mr.M.Ramesh, learned Government Advocate appearing for the first respondent in W.P(MD) No.2050 of 2020 would submit that continuously the



W.P.(MD) Nos.1137 and 2050 of 2020

petitioners have been taking lesser number of members belonging to the minority community to fill up the 50% category allotted exclusively for them. They would further submit that the petitioners, under the guise of this quota, are inducting non-minority students to their commercial advantage. Similar arguments were also advanced by Mr.A.Thirumurthy, learned counsel appearing for the University.

8. Heard the learned counsel appearing on either side.

9. The crux of the issue is the validity of the Government Order that had been passed as a stop-gap arrangement till the judgment of the Larger Bench of the Supreme Court and whether there has been a violation of the terms of the said Government Order, as argued.

Paragraph No.6 of the Government Order reads as follows:-

"6.Pending enactment of law on issues relating to granting of minority status and decision of Supreme Court (Larger Bench) in the cases relating to minority issues, the Government have decided to dispose of the applications claiming minority status for Education Institutions, by applying the guidelines specified in Paragraph-8 below."



W.P.(MD) Nos.1137 and 2050 of 2020

with students from the minority category is 50% of the total number of seats. However, there is no minimum cap given to this. On the contrary, it is stated that where there is a vacancy in this 50%, such vacancy can be filled up by the minority institution by selecting students from the common merit list, which is prepared by the competent authority, which in this case is the University. From a reading of the counter or the argument advanced, it is not the case of the respondents that the petitioners have taken the students outside this common merit list. The only ground which has been put forward to question the Minority Status is the fact that the number of minority students being inducted in the minority category has been low. Several factors would work towards this, minority students may opt for different colleges or for different streams, as a result of which, the number of applicants/selective candidates to be inducted in the petitioners minority institutions, would be less. Further, in the light of the judgment in ***T.M.A.Pai Foundation's case*** the respondents cannot issue orders on the basis of G.O.(Ms)No. 270. The similar view has been taken in the order of this Court in W.P(MD) No.5175 of 2014.



W.P.(MD) Nos.1137 and 2050 of 2020

WEB COPY

12. In view of the above discussions, these writ petitions are allowed and the impugned show cause notices dated 24.12.2019 and 02.01.2020 are set aside. The fact that this Government Order no longer has a force of law is evident from the fact that the Government have themselves decided to constitute an Empowered Committee for identifying institutions that have to be granted the status of minority institutions. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The Agricultural Production Commissioner and
Secretary to Government,
Agricultural Department,
Secretariat, St.George Fort,
Chennai-9.



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W.P.(MD) Nos.1137 and 2050 of 2020

P.T.ASHA, J.

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W.P.(MD) Nos.1137 and 2050 of 2020

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