



W.P(MD)No.14783 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14783 of 2023

and

W.M.P.(MD)Nos.12464 and 12467 of 2023

The Secretary,
Annai Velankanni College,
Tholavayavattam – 629 157,
Kanyakumari District.

... Petitioner

Vs.

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

2.The Director of Collegiate Education,
College Road,
Chennai – 600 006.

3.The Regional Joint Director of Collegiate Education,
Tirunelveli Region, Palayamkottai,
Tirunelveli District.

4.Manonmaniam Sundaranar University,
Rep. by its Registrar,
Abishekapatti – 627 012,
Tirunelveli District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 4th respondent University in Ref.No.MSU/R/CDC/ABC/Princi.Q.A./2018/2 dated 26.09.2018 and quash the same insofar as it restricts the approval of the appointment of Dr.J.Johnson as Principal of the petitioner college only for a period of 5 years.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel,
For M/s.Isaac Chambers.

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader for R1 to R3.
Mr.Mohammed Athiff,
Standing Counsel for R4.

ORDER

Heard the learned senior counsel for the writ petitioner / college, the learned Additional Governance Pleader for the respondents 1 to 3 and the learned standing counsel for the fourth respondent / University. With the consent of the learned counsel on either side, this writ petition is taken up for final disposal at the admission stage itself.



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2.The writ petitioner is an unaided college. It is affiliated to the fourth respondent. The petitioner appointed Dr.J.Johnson as its Principal with effect from 10.07.2018. The qualification approval was granted by the fourth respondent on 26.09.2018. In view of the issuance of UGC Regulations on 18.07.2018, some issue has arisen with regard to continuance of Dr.J.Johnson as Principal. The question is whether he has to demit office on the expiry of the five years period. While the college proposed to resolve the said issue in appropriate proceeding, they are faced with one technical difficulty. As per the statutes governing Manonmaniam Sundaranar University and Section 15 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, a candidate appointed to a teaching staff must obtain qualification approval from the university. In this case, the qualification approval granted in favour of Dr.J.Johnson is limited to a period of five years ie., upto 09.07.2023. Since the said time limit would operate as an impediment for continuance of Dr.J.Johnson in his capacity as Principal, the present writ petition came to be filed.

3.The learned senior counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and



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called upon this Court to interfere in the matter and grant relief as prayed for.

4.The Government of Tamil Nadu does not have any stake in this issue. The learned standing counsel for the University assisted the Court by drawing my attention to the relevant provisions.

5.I carefully considered the rival contentions and went through the materials on record. Clause 9 (a) of Chapter XVIII of the statute governing Manonmaniam Sundaranar University states that every college shall satisfy the Syndicate on the qualification of its teaching staff. Clause 11 of the said Act is as follows:-

“11.Appointments to the teaching staff of a college shall be made as per the provisions of the Tamil Nadu private colleges Act and rules approved by the Government.”

6.Clause 15(1) of the Tamil Nadu Private Colleges (Regulation) Act, 1976 is as follows:-



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“15.Qualifications of teachers and other persons

employed in private colleges :- (1) The University may make regulations, statutes or ordinance specifying the qualifications required for the appointment of teachers employed in any private college.”

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7. Therefore, after appointing Dr.J.Johnson as Principal, the college management had to submit the proposal to Manonmaniam Sundaranar University to which it is affiliated for qualification approval.

8. The University had granted qualification approval also on 26.09.2018. The only question that calls for consideration is whether the qualification approval should be limited to a period of five years. In my view, limiting the qualification approval for a period of five years is unwarranted.

9. The justification of the University is that as per 2018 Regulations, the tenure of the college Principal can be only for five years after which he will have to go back to his original post.



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“V.College Principal and Professor (Professor's Grade)

B. Tenure

i) A college Principal shall be appointed for a period of five years, extendable for another term of five years on the basis of performance assessment by a Committee appointed by the University, constituted as per these regulations.

ii) After the completion of his/her term as Principal, the incumbent shall join back his/her parent organization with the designation as Professor and in the grade of the Professor.”

10.It is seen from the above that after completing five years, the tenure of college Principal is extendable for another term of five years. Of course, there will have to be a performance assessment by a committee appointed by the University. The learned senior counsel raised a question as to the applicability of this Regulation in the present case. I do not want to go into the said issue because UGC is not a party in the present writ petition. However, the Regulations provide that a Principal can have a tenure upto ten years. In any event, holding that a qualification approval will be valid only for five years is irrational. This is because the above Regulations contemplate only performance



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assessment. It is not as if the qualification approval obtained by the petitioner has been cancelled. When the request for qualification approval was placed for consideration of the University, obviously the University would have undertaken a comprehensive and complete investigation and only thereafter issued the qualification approval. Such an approval cannot be limited in point of time. The qualification approval granted in favour of Dr.J.Johnson on 26.09.2018 is declared as not limited in point of time.

11.This writ petition is allowed on these terms. No costs.
Consequently, connected miscellaneous petitions are closed.

22.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 05.07.2023.

To:-

1.The Secretary,
Higher Education Department,
Fort St.George,
Chennai – 600 009.

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G.R.SWAMINATHAN, J.

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2.The Director of Collegiate Education,
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3.The Regional Joint Director of Collegiate Education,
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