



W.P.(MD)No.16812 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16812 of 2020

and

W.M.P.(MD)No.14048 of 2020

St. Marys College (Autonomous),
Rep by its Secretary, North Beach Road,
Thoothukudi – 628 001.

... Petitioner

-VS-

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

2.The Director of Collegiate Education,
Office of the Director of Collegiate Education,
9th Floor, EVK Sampath Building,
College Road, Chennai – 600 006.

3.The Regional Joint Director,
Office of the Regional Joint Director of Collegiate Education,
No.18, Tiruchendur Road,
Murugankurichy, Tirunelveli - 627 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned G.O.(D)No.77, dated 03.03.2016, on the file of the first



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respondent, quash the same insofar as it restricts the period to five years from 2015-16 to 2019-20, directing the first respondent to confer minority status without restricting the period. in respect of the petitioner College.

For Petitioner : Fr.V.John Kennedy
for M/s.Father Xavier Associates

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The petitioner has challenged G.O.(D)No.77, Higher Education (E1) Department, dated 03.03.2016, issued by the first respondent insofar as it restricts the period of five years for the minority status and for a consequential direction to the first respondent to confer minority status to the petitioner without restricting the period.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Government Advocate appearing on behalf of the respondents.

3. The issue involved in this Writ Petition is squarely covered by the earlier order passed by this Court in **C.M.P.No.5028 of 2020 and W.A.SR.**



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7173 of 2019, dated 13.08.2020 [The State of Tamil Nadu vs. Syed Ammal

Engineering College]. The only issue that was involved in that case was as to whether a limited recognition of minority status for a defined period of five years can be made by the Government, by issuing Government Orders. This issue was dealt with in detail, by considering the earlier judgments and ultimately, it was held as follows:-

"24.It has to be kept in mind that in such matters, one is dealing with fundamental rights guaranteed under Part III and not with a lease or a licence or a privilege at the pleasure of the Government. A periodical renewal of a Certificate by limiting its validity may not be necessary for an existing status of minority protected as a fundamental right under Art.30 of the Constitution of India, it is not something akin to the extension of a beneficial social scheme which may require a periodical physical verification of the living status of a human being or like renewal of a gun licence which is also a privilege, or in the like manner a driving licence. The principles of administrative law, therefore, while being pressed into service, in the mechanism of granting of certificates and its continuance or otherwise have to be subservient to the constitutional mandate preserved under Art.30 of the Constitution of India.

25. The State Government can exercise a reasonable control in the grant of certification or otherwise when the legal character of



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the minority status of an institution on its own undergoes a transformation. For example, an institution initially established as a secular institution or conversely as a minority institution can undergo such a fundamental change so as to destroy its basic character. It is trite to remember Heraclitus who said ~ ?There is nothing permanent except change?. Thus a living nature of the status of minority unless duly transformed in a way so as to loose its basic character, minority or otherwise, cannot be deprived of its status which is not dependent upon a certification. The certification or its withdrawal may have an impact upon rights and privileges that may be available to such institutions from the Government and therefore, the Government can exercise control to that extent by imposing regulatory conditions which do not impinge upon the administration of the institution.

26. It is also stated by the learned Government Pleader that there are other States throughout the country that have restricted the life of certificates of recognition to minority institutions providing for renewal after three years or even annually. Thus the prescription of five years in this State is justified. The illustrations of other States may not be of any avail once we have found no rationale in the prescription to make it constitutionally sustainable.

27. Having considered the submissions raised and in view of what has been noted hereinabove, there being no further challenge at



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present to the Division Bench judgment dated 21.02.2020, we see no reason to differ from the view taken by the Coordinate Bench and finding ourselves in agreement with the same, we find no merit in the arguments advanced on behalf of the State even in this appeal."

4. The above judgment was followed by this Court consistently and in all cases where the minority status was given only for a defined period of five years, it was interfered and there was a direction issued to confer the minority status without restricting the period. The same order has to be passed in this Writ Petition also.

5. In view of the above, the Government Order insofar as it restricts the period to five years, is hereby quashed and there shall be a direction to the first respondent to confer minority status without restricting the period. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. This Writ Petition is accordingly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No

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N.ANAND VENKATESH, J.

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