



W.P.No.3914 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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V.Ramamurthy

.. Petitioner

Vs

- 1.Interim Administrator,
Pachaiyappa's Trust Board,
Pachaiyappa's College Campus,
Chennai-600 030.
- 2.The Directorate of Collegiate Education,
Chennai Region, Chennai – 600 015.
- 3.The Joint Director of Collegiate Education,
Chennai Region
Chennai – 600 015.
- 4.The Regional Joint Director of Collegiate Education,
Vellore Region,
Vellore – 632 006.
- 5.The Secretary,
Pachaiyappa's College,
Pachaiyappa's Trust Board,
Pachaiyappa's College Campus,
Chennai-600 030.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned advertisement pertaining to the appointment of Assistant Professors, Librarian and Director of Physical Education published in vernacular daily dated 1.2.2024 and quash the same as illegal and consequently forbear the 5th respondent from making any appointments to the post of Assistant Professors, Librarian and Director of Physical Education in the Pachaiyappa's College till the constitute the Trustees of Pachaiyappa Trust as per the scheme decree of the Pachaiyappa's Trust.

For the Petitioner : Mr.Murugendran
for M/s.R.Selvakodi

For the Respondents : Mr.E.Om Prakash
Senior Counsel
for Mr.M.R.Jothimanian
for respondents 1 and 5

: Mr.A.Edwin Prabakar
State Government Pleader
for respondents 2 to 4

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.Murugendran, learned counsel appearing on behalf of M/s.R.Selvakodi, learned counsel for the petitioner; Mr.E.Om



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Prakash, learned Senior Counsel appearing on behalf of Mr.M.R.Jothimanian, learned counsel for respondents 1 and 5; and, Mr.A.Edwin Prabakar, learned State Government Pleader for respondents 2 to 4.

2. The present writ petition has been filed in the nature of a public interest litigation.

3. The petitioner challenges the advertisement issued by the Secretary, Pachaiyappa's Trust Board, inviting applications for filling in the posts of Assistant Professors, Librarian and Director of Physical Education.

4. The petitioner is not seeking any employment. The petitioner contends that he has no personal interest. He is an old student of Pachaiyappa's College and a voter in the Graduate Constituency.



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5. It appears that the Pachaiyappa's Trust runs ten educational institutions and various trusts, charities and endowments. There is infighting amongst the members of the trust. This court appointed an Interim Administrator. However, the elections have not taken place till date and the Interim Administrator is managing the affairs of the said trust.

6. Learned counsel for the petitioner strenuously contends that the Interim Administrator has no power to issue the advertisement inviting applications for filling in various posts. The only purpose of appointment of the Interim Administrator is to conduct elections and no further. The act of the Interim Administrator inviting applications for filling in the various posts is beyond his authority.

7. Learned counsel for the petitioner submits that a Division Bench of this Court in the appeal, bearing W.A.Nos.4112 and 4115 of 2019, under order dated 6.12.2019, had expressed doubt



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about the power of the Administrator to make appointments.

8. According to learned counsel for the petitioner, the prior permission is also not obtained from the Education Department for issuing the notification/advertisement inviting applications for filling in the posts. The same is mandatory. Learned Counsel relies upon the letter of the Joint Director of Collegiate Education, Chennai Region, dated 10.2.2024.

9. Learned counsel for the petitioner submits that when illegality is committed in issuance of advertisement, public interest litigation is maintainable. He relies upon the judgment of a Division Bench of this court in the case of *V.Rajesh Kannan v. The State of Tamil Nadu and others*, 2017 SCC OnLine Mad 15429.

10. Learned State Government Pleader submits that the permission has not been obtained before issuance of the



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advertisement and the workload vis-a-vis the number of posts available is required to be taken into consideration. In respect of Mathematics subject, the strength of the students is less and no sufficient workload would be available to the teachers.

11. Mr.Om Prakash, learned Senior Counsel appearing on behalf of respondents 1 and 5, submits that the advertisement is issued by the Secretary and not the Interim Administrator. The term "*Secretary*" is defined under Section 12 of the Tamil Nadu Private Colleges (Regulation) Act, 1976 as "*Every College Committee shall have a Secretary who shall exercise such powers and perform such functions as prescribed.*" He further submits that the appointments will be made by the College Committee and not by the Interim Administrator. The petition is misplaced and filed with an oblique motive. There are 132 vacant posts as per the sanctioned staffing pattern of six colleges.

12. We have considered the submissions canvassed by the



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respective counsel.

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13. Upon hearing the arguments and going through the documents placed on record, it appears that the writ petition is misplaced and not based on correct facts.

14. The entire argument of learned counsel for the petitioner is directed against the Interim Administrator. The challenge is that the Interim Administrator has issued the advertisement. He has no power to issue the advertisement.

15. The advertisement inviting applications for filling in the posts is issued by the Secretary. The Secretary is authorised to issue it as per the provisions of the Act of 1976. The advertisement nowhere states that the same is being issued by the Interim Administrator. A statement is made by learned Senior Counsel for respondents 1 and 5 that the appointments shall be made by the College Committee and the Interim



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Administrator is a part of the College Committee.
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16. A Division Bench of this Court in the case of *P.Ravichandran v. State of Tamil Nadu and others*, 2013 5 LW 514, relied upon by learned counsel for the petitioner, has observed that there is no requirement under the Act of 1976 and the Tamil Nadu Private Colleges (Regulation) Rules, 1976 to seek prior permission to fill in the vacant posts in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules of 1976. In the instant case, the advertisement states that applications are invited against sanctioned posts, meaning thereby that the sanctioned posts are sought to be filled in under the advertisement.

17. As per respondents 1 and 5, 132 posts are vacant. The details of the same are as under:



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Sl. No.	Name of the Colleges	Teaching Staff		
		Sanctioned Strength	Existing Strength	Vacant
1	Pachaiyappas's College, Chennai	186	136	50
2	C.Kandaswamy Naidu College for Men, Chennai	35	24	11
3	Chellammal Women's College, Chennai	51	39	12
4	Pachaiyappa's College for Men, Kanchipuram	52	39	13
5	Pachaiyappa's College for Women, Kanchipuram	33	13	20
6	C.Kandaswamy Naidu College for Women, Cuddalore	60	34	26
	Total	417	285	132

18. The colleges cannot function without Assistant Professors and the staff. 130 posts of Assistant Professors are vacant in six colleges. If the posts are not filled in, the educational activity would be paralysed. The loss would be to the students.



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19. In the first place, without ascertaining the real facts, the petition ought not to have been filed. The posts cannot remain vacant for a long period. The petitioner should have thought twice before filing the petition. The delay in filling in the posts would affect the educational standards of the institutions/ colleges. If the colleges are run without the required staff, then it may face dire consequences at the hands of the universities, even to the extent of withdrawal of affiliation.

20. In the light of the above, the writ petition is sans merit and, as such, is dismissed. As we have dismissed the writ petition on merits, we have not considered the aspect of maintainability.

21. At this stage, learned counsel for the petitioner seeks withdrawal of the amount. In fact, we had directed the petitioner to deposit a sum of Rs.1 Lakh to test the bona fide and as a security. Learned counsel for the petitioner submits that had the



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real facts been brought to the notice of the petitioner, he would not have filed the writ petition.

22. Learned counsel for the petitioner graciously submits that out of the amount of Rs.1 Lakh, the petitioner would give Rs.25,000/- to the Pachaiyappa's College, Chennai, for upkeep of the premises.

23. In view of some bona fide shown by the petitioner, the amount of Rs.25,000/- be remitted to the Pachaiyappa's College, Chennai, and the remaining amount of Rs.75,000/- be allowed to be withdrawn by the petitioner.

Consequently, W.M.P.Nos.4238 and 4239 of 2024 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

23.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Directorate of Collegiate Education,
Chennai Region, Chennai – 600 015.
- 2.The Joint Director of Collegiate Education,
Chennai Region
Chennai – 600 015.
- 3.The Regional Joint Director of Collegiate Education,
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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