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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-07-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

WA No.3016 of 2021

And

CMP No.20693 of 2021

The Registrar,
Bharathiar University,
Coimbatore-641 046.

.. Appellant

-VS-

Association of Self Financing Arts, Science and
Management Colleges of Tamil Nadu,
Represented by its Secretary,
T.Sethupati,
No.86, West Club Road,
Race Course,
Coimbatore-641 018.

.. Respondent

Writ Appeal is preferred under Clause 15 of the Letters Patent against
the order passed by this Court in WP No.19295 of 2021 dated 27.09.2021.

For Appellant : Mr.K.J.Parthasarathy



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For Respondent : Mr.G.Sankaran,
Senior Counsel for
Mr.S.Nedunchezhiyan

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The writ order dated 27.09.2021 passed in WP No.19295 of 2021, is sought to be assailed in the present Writ Appeal.

2. The respondent-Bharathiar University in the writ petition, is the appellant before us.

3. The respondent-Association of Self Financing Arts, Science and Management Colleges of Tamil Nadu, filed writ petition, challenging the communication dated 29.01.2021 and the consequential publication in the writ petition and sought for a direction to conduct election for the Graduate Constituency only after the completion of process of Registration Forms accepted as on 13.11.2020.



4. The respondent-Association filed about 8,000 applications of their members for registration under Bharathiar University Act. Since the applications submitted by the respondent were not processed under the provisions of the Statute, the writ petition came to be instituted.

5. The Writ Court formed an opinion that certain technical points should not stand in the way of the Authorities to consider the applications submitted by the respondent-Association for registration under the Statute. Aggrieved by the said view taken by the Writ Court, the University filed the present Writ Appeal.

6. Mr.K.J.Parthasarathy, learned counsel appearing on behalf of the writ appellant, would submit that the Statute contemplates the procedure for registration of graduates and individual person has to submit application along with their identity and requisite documents for consideration by the University.



7. In the present case, the respondent *en masse* filed more than 8,000 applications, which cannot be processed and would result in chaos. Such applications submitted through Association, are not entertainable. Therefore, the Writ Appeal is to be considered.

8. Mr.G.Sankaran, learned Senior Counsel appearing on behalf of the respondent, would oppose by stating that there is no impediment to consider the applications submitted through Association. Applications submitted by another Association, was taken into consideration by the appellant-University and those applications were processed. That being so, the writ order is to be sustained.

9. It is contended that the respondent alone cannot be discriminated in the matter of submission of applications for registration of graduates. Thus, the Writ Appeal is to be rejected.

10. Considering the arguments, an issue arises, whether Association can file 8,000 applications for registration of Graduates under



the Act or not?

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11. Chapter C provide elections to be conducted by the University. Sub-clause (a) deals with Electoral Rolls. Clause (1) states about the registration of graduates. Sub-clause (1) states that on and after the notified date, every person ordinarily resident within the University area, who –

(i) has been for at least three years a graduate of any University in the territory of India; or;

(ii) is a registered graduated of any University in the territory of India, shall be entitled to have his name entered in the register of graduates maintained under this Act for a period of five years on payment to such fee and subject to such conditions as may be prescribed by the Statutes.

(2) All application for registration under sub-section (1) shall be sent to the Registrar together with the prescribed fee and such proof of qualifications as may be prescribed by the Statutes.

(3) The Registrar shall, on receipt of an application made under sub-section (2) and after making such enquiry as he deems fit, enter in the register of graduates the name of the applicant.



(4) Every person whose name has been entered in the register of graduates under sub-section (3) shall be entitled to have such entry renewed every five years on application made in that behalf to the Registrar within such time, in such manner and on payment of such fee as may be prescribed by the Statutes.

12. Careful perusal of the above provisions would indicate that application must be submitted by an individual graduate for registration. The elected person will be the member of Senate. Therefore, individual submission of application is intended under the provisions of the Act. In the event of Association submitting more than 8,000 applications, intention of the individuals, cannot be ascertained by the University. It requires scrutinisation of application of the individual and the right to consider and register must be on the basis of individual application. Therefore, Association filing about 8,000 applications, may not be proper with reference to the provisions of the Statute.



13. There cannot be any further interpretation, so as to expand the scope of the Statute, which would result in serious repercussions. Therefore, Association, in the present case, filing more than 8,000 applications, was rightly rejected by the University. However, the rights of individuals are not taken away. It is for the individual persons to submit their application and on receipt of any such application, the University is bound to consider the same by following the procedures as contemplated under the Statute and the Rules in force.

14. In the context of the above observations, Association cannot be defined as "person" within the meaning of Chapter (C)(a)(1) of the University Act. The Act, specifically states that on and after the notified date, every '**person**' ordinarily resident within the University area. The 'person' in the Act, indicates an 'individual' and not an 'Association'. A 'person' is to be defined to the extent of permitting individual person to submit application. Therefore, 8,000 applications filed by Association, are not entertainable. More-so, Association has no locus to submit application under the Statute for registration of graduates.



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15. In respect of other Associations submitting applications, it is made clear that the University should not receive any such applications from any Association, since 'Association' is not a 'person', within the meaning of Electoral Rolls and more-so, 'Association' by itself cannot cast vote. Therefore, the right to vote given to the individual must be exercised in the manner contemplated. Thus a 'person', who is eligible to be the member of Senate, alone must submit application. Thus, the applications received from other Association, if any processed, must be rejected and liberty may be granted to those persons to submit their applications individually for consideration under the provisions of the Act.

16. All the applications received through any Association, are directed to be returned to the Association and the applications of the individual person alone must be received by the University and to be considered by following the due process as contemplated under the Act and the Rules in force.



17. In view of the above legal position, with reference to the University Act, the writ order impugned dated 27.09.2021 passed in WP No.19295 of 2021 is set aside. Consequently, the present Writ Appeal stands allowed. However, there shall be no order as to costs. The connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

29-07-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

The Registrar,
Bharathiar University,
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