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W.P.No.21890 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21890 of 2023
and W.M.P.Nos.21212 and 21214 of 2023

Vallivalam Desikar Polytechnic College,
represented by its Chairman,
Valivalam, Nagapattinam-611 001.

... Petitioner

-Vs-

The Director of Technical Education,
Directorate of Technical Education,
Sardar Patel Road,
Guindy, Chennai-25.

... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records of the respondent in letter No.8715/C3/2018 dated 07.12.2021 and quash the same and consequently, direct the respondent to permit the petitioner to convene staff selection committee to fill up the vacancies to the sanctioned posts in Valivalam Desikar Polytechnic College, Nagapattinam.

For Petitioner : Mr.N.A.Nissar Ahamed, Senior Counsel
for Mr.I.Kowser Nissar

For Respondent : Mr.K.H.Ravikumar
Government Advocate



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ORDER

This Writ Petition has been filed challenging the order passed by the respondent dated 07.12.2021, thereby refused to grant permission to fill up the vacancies in the petitioner College due to dispute between the Management.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner college is represented by its Chairman and the governing council one Ezhilarasi Manoharan. Her grand father one K.M.Desikar is the founder of the petitioner college, having founded the college in the year 1958. In compliance to the grant in aid code for obtaining government aid to the institution, the founder floated a society by name Valivalam Desikar Polytechnic Educational Society, Nagapattinam, bearing Registration No.49/1969. The founder was the Chairman and thereafter, his son one A.Appasamy succeeded to the office of the Chairmanship. The respondent reconstituted the Governing Council as per Article 9(1) chapter 2 of the Grant-in-Aid. The said Governing Council comprises of the members of the society bearing Registration No.49/1969 and nominees of the Government and AICTE. While being so, the brother of the Chairman one Manaazhagan, due to rivalry,



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floated a deceptive society by name Valivalam Desikar Polytechnic College Educational and Cultural Trust, Nagapattinam, bearing Registration No.7/2004.

Therefore, the petitioner challenged the said society in W.P.No.17006 of 2006 and the same was allowed and the Society floated by her brother was declared as illegal and void under Section 9 of the Tamil Nadu Societies Registration Act, 1975. Once again, her brother floated another deceptive Society bearing Registration No.134/2007. It was also challenged before this Court in W.P.No.14128 of 2008 and this Court by an order dated 10.12.2008, declared the said Society as illegal and void and the same was also confirmed by the Hon'ble Division Bench of this Court in W.A.No.1505 of 2008 by an order dated 21.04.2010.

4. Aggrieved by the same, an appeal was filed before the Hon'ble Supreme Court of India in SLP (civil) No.21015 of 2010 and it is pending. Once again, her brother challenged the order of the Inspector General of Registration and also challenged the order of the Director of Technical Education approving the newly constituted Governing Council, in C.R.P.No.2286 of 2010 and W.P.No.5244 of 2011. The petitioner Society also filed a Civil Revision Petition in C.R.P.(NPD).No.2140 of 2010 with regard to



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certain observations made by the Inspector General of Registration by its proceedings dated 21.06.2010. All the cases were disposed of this Court by a common order dated 06.06.2012 which directed framing of a scheme by the Advocate General. Insofar as the said direction, both the petitioner as well as her brother challenged the same before the Hon'ble Supreme Court of India in SLP (civil).Nos.38064-38067 of 2012 and in S.L.P.Nos.1292 to 1294 of 2013 and by an order dated 09.01.2013, the Hon'ble Supreme Court of India ordered status quo in SLP (civil).Nos.38064-38067 of 2012 and the appeals are pending.

5. Therefore, the Governing Council, reconstituted and approved by the respondent as per the Grant-in Aid code, is administering the polytechnic college. The petitioner is now facing vacancy of sanctioned posts. Out of 93 sanctioned posts, 54 posts are lying vacant. As per AICTE norms, staff members should be appointed, failing which approval will be denied by AICTE.

6. Therefore, the petitioner submitted a representation seeking



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permission to fill up the vacancies. However, it was not considered and as such, the petitioner was constrained file a writ petition before this Court in W.P.No.27872 of 2019. This Court, by an order dated 19.09.2019 directed the respondent to consider the representation and pass orders. However, without considering the facts and circumstances, the respondent rejected the representation submitted by the petitioner by an order dated 07.12.2021, on the ground that the cases are pending between the petitioner and the rival claimant.

7. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, those proceedings have nothing to do with filling up of vacancies. As on 01.01.2024, there are 57 vacancies under the heads of teaching and non-teaching.

8. On instructions, the learned Government Advocate appearing for the respondent, submitted that the petitioner college is an Aided Institution and it is administered by Valivalam Desikar Polytechnic College Education Society vide Registration No.49 of 1969 under the Chairmanship of the petitioner. However, her brother was acting as an interim administrator from 2003 to 2011 and as against the order passed by this Court, the appeals are pending before the



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Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India ordered status quo. Therefore, the respondent refused to consider the request made by the petitioner and it will be considered only after the disposal of the appeals pending on the file of the Hon'ble Supreme Court of India.

9. As stated supra, appeals pending before the Hon'ble Supreme Court of India has nothing to do with filling up of vacancies. Admittedly, there is a dispute between the petitioner Society and the rival claimant who is none other than the brother of the present Chairman. Now the petitioner college is facing so many issues without filling up of vacancies. Therefore, there is an apprehension that approval of the petitioner college will not be renewed if the posts are not filled up.

10. In view of the above discussions, the impugned order of the respondent in letter No.8715/C3/2018 dated 07.12.2021 cannot be sustained and is liable to be quashed. Accordingly, the order of the respondent in letter No.8715/C3/2018 dated 07.12.2021 is hereby quashed. The petitioner is permitted to fill up the vacancies on the strength of the vacancies, forthwith. After filling up of vacancies, the petitioner is directed to send for approval.



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11. Accordingly, this writ petition is allowed. Consequently, connected

Miscellaneous petitions are closed. There shall be no order as to costs.

31.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J,

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To

The Director of Technical Education,
Directorate of Technical Education,
Sardar Patel Road,
Guindy, Chennai-25.

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