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W.P.No.25446 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 25446 of 2021

and

W.M.P.No.26886 of 2021

Dhanraj Baid Jain College,
(Institution of Tamil Nadu Educational & Medical Trust),
Jyothi Nagar, Thoraipakkam,
Chennai – 600 097,
Rep.by its Secretary (Administration),
Harish L.Mehta.

...Petitioner

Versus

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

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

3. The Registry,
University of Madras,
Chepauk, Chennai – 600 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of



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India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Mu.Mu.No.17816/G1/2019 dated 29.09.2021 and to quash the same and consequently directing the respondents to approve the surrender 5 UG Degree aided Courses and 3 PG Degree aided courses in compliance to Rule 16 of Tamil Nadu Private Colleges (Regulation) Rules 1976 from academic year 2020-2021.

For Petitioner : Mr.V.Vijay Narayanan
Senior Counsel for
Mr.J.Jayamalan

For Respondents : Mr.D.Ravichandran
Special Government Pleader
for R1 and R2

Ms.A.Shabnam Banu for R3

ORDER

This writ petition has been filed challenging the impugned proceedings issued by the 2nd respondent in Mu.Mu.No.17816/G1/2019 dated 29.09.2021 and for a consequential direction to the respondents to approve the surrender of five UG degree aided courses and three PG degree aided courses in compliance to Rule 16 of Tamil Nadu Private Colleges (Regulation) Rules 1976 from academic year 2020-2021.

2. The case of the petitioner in a nut-shell, is as follows:

(a) The petitioner College has been established by Tamil Nadu



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Educational and Medical Trust with laudable object of imparting higher education for the people, who belong to poor and downtrodden in the year 1972. From the date of its inception, the petitioner College is rendering meticulous service in the field of education resulting in increased strength of students over the years. The petitioner College is a minority aided college and it conducted aided courses receiving grant-in-aid from the State Government viz., five UG degree courses and three PG degree courses. Apart from that, the petitioner College is also conducting Self Financing Courses with qualified teachers. It is the further case of the petitioner that petitioner College offers graduate and post graduate degree courses in various disciplines, apart from research programmes. They have also acquired NAAC certification, Campus interview and ISO certification on account of reaching the target in the matter of imparting quality education over the decades. Further, the petitioner College is affiliated to third respondent-University of Madras.

(b) In respect of aided courses, the teaching and non-teaching staffs appointed in aided posts are being paid salary from the grant given by the State Government. However, in the course of time, when the aided posts become vacant, the same could not be filled up by the College Management over the decades, due to difficulties in getting permission



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and approval from the Education Department. The fact remains that over the past 15 years, the College Management has not filled up any aided posts in view of the administrative exigencies and procedural requirements involved in the matter of granting permission to fill up the post by the Department and for getting approval of appointment from the Department. Thereby, the petitioner College is facing innumerable hardships for getting permission to fill up the vacancies arose in the aided courses that has caused serious prejudice to the interest of students studying in the College.

(c) In the petitioner College, there are five UG and three PG degree courses are coming under the aided stream. However, for all these courses, presently, there is only one aided staff working in their college, holding the post of Physical Director. Due to insufficient aided staff, the College is facing difficulties to manage the students in aided courses. In the said circumstances, the petitioner College has decided to convert the aided courses into Self Financing courses from the academic year 2019-2020 and also passed a resolution dated 25.02.2019. Based on which the petitioner College submitted a representation to the respondents in May 2019 but the same was not considered. Hence, the petitioner filed a writ



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petition in W.P.No.13641 of 2019. This Court vide order dated 11.06.2019 disposed of the said writ petition by directing the respondents to consider the representation of the petitioner. Pursuant to the order of this Court, the petitioner College found that the procedure for conversion of courses is cumbersome and the proposal for the same will not reach finality in the near future. Thus, the College Management has taken a decision to surrender all aided courses to the Education Department by submitting necessary application in Form-8 in accordance with Rule 16 of Tamil Nadu Private Colleges (Regulation) Rules 1976. However, the same was not considered by the Department, in view of the earlier proposal for conversion of courses submitted by the petitioner College.

(d) Therefore, the petitioner College filed a writ petition in W.P.No.9444 of 2020. This Court by order dated 22.07.2020 directed the petitioner College to make new application in the prescribed format before the second respondent and also directed the second respondent to consider the same within a period of three months. Pursuant to the said direction, the petitioner College has submitted a fresh application to the second respondent on 04.08.2020 in the prescribed format for surrender of aided courses in Form-8 as per Rule 16 of Tamil Nadu Private Colleges



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(Regulation) Rules 1976 from the academic year 2020-2021, apart from surrendering aided teaching and non-teaching post to the Department.

However, the respondents have not complied with the order of this Court dated 22.07.2020 and the application submitted by the petitioner College was kept pending. Therefore, the petitioner College filed Contempt Petition in Cont.P.No.148 of 2020. During the pendency of the Contempt Petition, the second respondent passed an order dated 17.03.2021, rejecting the application submitted by the petitioner, without providing any opportunity to the petitioner College.

(e) Challenging the said order dated 17.03.2021, the petitioner College filed another writ petition in W.P.No.16928 of 2021. This Court vide order dated 25.08.2021 quashed the impugned order dated 17.03.2021 and remanded the matter back to the second respondent for fresh consideration. However, the second respondent without considering the representation and explanation submitted by the petitioner, passed the impugned order dated 29.09.2021 reiterating the same reasons stated in the earlier order dated 17.03.2021. Hence, the petitioner is now constrained to file this writ petition.

3. Learned Senior Counsel appearing for the petitioner



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submitted that there is no sufficient staff to run the aided courses, the petitioner College earlier given a representation to the respondents requesting for conversion of the aided courses into self financing courses from the academic year 2019-2022. This was done due to the fact that the post of aided teaching and non-teaching staff remained vacant without being filled up for the past 15 years. As the procedure for conversion of courses remain to be cumbersome, the petitioner College decided to surrender all aided courses to the Department as per Rule 16 of Tamil Nadu Private Colleges (Regulation) Rules 1976. He further submitted that the petitioner College decided to surrender the aided courses only on the ground that due to the inordinate delay in granting permission to fill up the teachings posts over the decades, except one appointment made in the year 2000, necessitating the Management to fill up the posts to fulfill the commitment and obligation to offer continuity of courses in the interest and welfare of the students who were already admitted in the petitioner College. He further submitted that the present impugned order has been passed mainly on the ground that there are no adequate aided Colleges available in and around the area in which the petitioner College is situated. However, there are several number of Colleges are available in the same area, viz., Government College, Perumbakkam, SIVET



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College, Gourivakkam, Quadie Millath College in Medavakkam, Gurunanak College, Velacherry and SNDB Vaishnava College for Women, Chrompet. Therefore, the interest of poor students residing in that area are not affected due to surrender of aided posts by the petitioner College. Therefore, the reasons assigned in the impugned order of the second respondent is not sustainable. He further submitted that presently one aided teaching staff is available in the petitioner College, who is also holding the post of Physical Director, with the Physical Director, the petitioner College is unable to perform the noble duty of teaching aided course students. That apart, no student is now studying in the aided courses. In view of the lethargic attitude of the Government Officials for not filling up the post in the aided courses in the petitioner College, the petitioner College has taken decision to surrender all the aided courses to the Department. He further submitted that petitioner College is now ready surrender the aided teaching staff, holding the post of Physical Director within a period of one week enabling the Government to utilise his services in any one of the aided colleges in and around the area.

4. Per contra, learned Special Government Pleader appearing for the respondents 1 and 2 by referring to the counter affidavit and



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denying all averments made in the affidavit, submitted that the writ petition is not maintainable as the petitioner has an alternative efficacious remedy to file an appeal under Section 37 of Tamil Nadu Private Colleges Regulations Act, 1976. He further submitted that as per the directions of this Court dated 17.03.2021 in W.P.No.16928 of 2021, the second respondent after considering all the documents of the petitioner, passed the impugned order under Section 25 of Tamil Nadu Private Colleges Regulations Act, 1976 rejecting the application seeking to surrender five UG and three PG aided courses. Further, the students already admitted during the academic year 2019-20 are still studying in III year in the petitioner's College. He further submitted that contention of the petitioner regarding procedural formalities and difficulties in getting permission and approval of appointment from the Department is unsustainable, right from the inception of the petitioner College in the year 1972, it has been run by the management as aided private College and grants have been continuously received from the Government and the decision of the petitioner College to surrender the aided courses will cause prejudice to students residing in that locality. Therefore, filing of this writ petition is not justified and the same has to be dismissed.



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5. Heard the learned counsel on either side and perused the

materials available on record.

6. Admittedly, the petitioner College was started in the year 1972 as aided college and now the nucleus of the issue involved in the present writ petition is that the respondents are not accepting the surrender of aided courses to the Department. In the present case, the reason for surrendering five UG courses and three PG courses are non providing of teaching faculty to aided courses of the petitioner College. Without providing the aided staff to the petitioner College forcing the petitioner College to run the aided course in their College cannot be accepted and also now only one aided teaching staff, who is holding the post of Physical Director is working in the petitioner College and the person who is holding the post of Physical Director cannot be expected to conduct classes to the students in the aided courses. It is also relevant to note that not even a single student is studying in the petitioner College in the aided courses. When there is no student is studying in the aided courses, the impugned order passed by the second respondent by relying Section 25 of Tamil Nadu Private Colleges Regulations Act, 1976 is not sustainable. Hence, the order impugned in this writ petition is liable to be



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set aside.

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7. Accordingly, this writ petition is allowed and the impugned order dated 29.09.2021 passed by the second respondent is set aside. The petitioner College is directed to surrender the Physical Director post within a period one week from the date of receipt of a copy of this order to the Department. The petitioner is also directed to submit fresh application to the respondents in accordance with rules for surrender of aided courses and the respondents are directed to accept the application submitted by the petitioner within a period of two weeks, thereafter. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai – 600 006.
3. The Registry,
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