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W.A.Nos.2930 of 2021 & 69 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.Nos.2930 of 2021 and 69 of 2022
and C.M.P.Nos.19853 & 19854 of 2021, 651 & 652 of 2022,
and C.M.P.Nos.19701 & 15182 of 2023**

W.A.No.2930 of 2021

1 Theagaraya Chetty Educational
Institutions Sir Theagaraya College
Committee Rep. By Its Secretary Old No.345
New No.1047 T.H. Road Old Washermenpet
Chennai-600021

2 The Secretary And Correspondent
Theagaraya Chetty Educational
Institutions Sir Theagaraya College
Committee Chennai-600021

.... Appellants

-Vs-

1 Dr.K.Thamizharasan
Associate Professor And Head Dept. Of
Physics Sir Theagaraya College Chennai-600021

2 The Secretary To Government
Of Tamilnadu Dept. Of Higher Education
Fort St. George Chennai-9

3 University Grants Commission
Rep. By Its Secretary New Delhi

4 Dr.P.Senthilkumar
HOD Of Zoology Sir Theagaraya College, Chennai-21



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- 5 The Director Of Collegiate Education
DPI Campus Evk Sampath Malligai
College Road Chennai-6
 - 6 The Joint Director Of Collegiate Education
(Chennai Region) Saidapet, Chennai-15
 - 7 The Vice Chancellor/Registrar
Madras University Chepauk Chennai-5
- Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.15246 of 2018 dated 15.11.2021.

For Appellants : Mr.B.Ravi

For Respondents : Ms.Arul Mozhi - for R1
Mr.B.Rabu Manohar - for R3
Ms.Anitha
Special Govt.Pleader-for RR 2, 5 and 6
Mrs.Hema Sampath, Senior Counsel
for Ms.K.Priyadarshini - for R4
Ms.V.Sudha - for R7

W.A.No.69 of 2022

Dr.P.Senthilkumar
HOD Of Zoology Sir Theagaraya College,
Chennai-21.

... Appellant

-Vs-

- 1 K.Thamizharasan
Associate Professor And Head Department Of
Physics Sir Theagaraya College Chennai 600 021
- 2 The Secretary To Govt Of Tamil Nadu
Department Of Higher Education
Fort St. George Chennai-600 009.
- 3 University Grants Commission
Rep. By Its Secretary New Delhi.



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4 Theagaraya Chetty Educational
Institutions Sir Theagaraya College
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Chennai-600 021.

5 The Secretary And Correspondent
Theagaraya Chetty Educational
Institutions Sir Theagaraya College
Committee Chennai-600 021.

6 The Director Of Collegiate Education
DPI Campus EVK Sampath Malligai
College Road Chennai-006.

7 The Joint Director Of Collegiate Education
Chennai Region Saidapet, Chennai-015.

8 The Vice Chancellor/ Registrar
Madras University Chepauk Chennai-005.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.15246 of 2018 dated 15.11.2021.

For Appellant : Mrs.Hema Sampath, Senior Counsel
for Ms.K.Priyadarshini

For Respondents : Ms.Arul Mozhi - for R1
Mr.B.Rabu Manohar - for R3
Mr.B.Ravi - for R4
Ms.Anitha
Special Govt.Pleader-for RR 2, 6 and 7
Ms.V.Sudha - for R8



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COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

When the case came up for hearing on 19.02.2024, the learned counsel for the appellants in both the appeals have submitted that the respective appellants want to withdraw the appeals because of the happenings that had taken place during the pendency of the appeals. In this context, separate memos have been filed by the appellants in both the cases.

2. In W.A.No.2930 of 2021, the appellant has filed the following memo:

Memo filed on the side of the 1st Appellant

It is submitted that in W.P.No.15246 of 2018 filed by the 1st respondent herein, this Hon'ble Court to set aside the order of appointment of Mr.Senthil Kumar as Principal and directed the formation of new committee by the University to evaluate the API scores of the candidates who appeared for selection. It was further held that if the present incumbent got more marks than the writ petitioner Mr.Tamizharasan, then, he was to continue to serve the full term of 5 years from the date of his initial appointment as Principal. If the writ petitioner obtained more marks, then he should be appointed as Principal for a 5 year term from the date of his appointment.

The selected principal filed W.A.No.69 of 2022 and the college filed W.A.No.2930 of 2021.

Pending the writ appeals, as per the order of the Hon'ble Division Bench, a new committee of experts was formed by the



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University as per the norms and as per the order in the writ petition.

The new committee evaluated the API scores of both the candidates afresh. The originally selected candidate Mr.Senthilkumar again secured more marks the writ petitioner / 1st respondent.

At the request of the first respondent the UGC was directed to ascertain the genuineness of the journals in which the selected candidate's papers were published. UGC also submitted a memo endorsing the genuineness of the journals submitted by the selected candidate.

Pursuant to the interim order of status quo, the selected candidate had been continuing as Principal. He attained superannuation on 31.01.2024 and his services were directed to be continued till the end of the academic year ie., 30.04.2024. The Director of Collegiate Education has also approved of his continuation till the end of the academic year subject to the outcome of the writ appeal.

The institution has already initiated further process of selection of a new Principal. The directions in the writ petition as well as the writ appeals have been fully complied with. Therefore, nothing survives in the writ appeal. As nothing survives in the writ appeal, the writ appeal may be closed as withdrawn without prejudice to the continuation of the 5th respondent Dr.Senthil Kumar as per proceedings in OMu.No.48720/Ji1/2023 dated 31.01.2024.

It is therefore prayed that this Hon'ble Court be pleased to record this memo and close the writ appeal W.A.No.2930 of 2021 as withdrawn and thus render justice.

Dated at Chennai on this the 19th day of February 2024.

Counsel for Appellant"



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3. In W.A.No.69 of 2022, the appellant has filed the following memo:

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It is submitted that in W.P.No.15246 of 2018 filed by the 1st respondent herein, this Hon'ble Court to set aside the order of appointment of Mr.Senthil Kumar, the appellant herein as Principal and directed the formation of new committee by the University to evaluate the API scores of the candidates who appeared for selection. It was further held that if the present incumbent got more marks than the writ petitioner Mr.Tamizharasan, then, he was to continue to serve the full term of 5 years from the date of his initial appointment as Principal. If the writ petitioner obtained more marks, then he should be appointed as Principal for a 5 year term from the date of his appointment. The appellant filed W.A.No.69 of 2022 and the institution filed W.A.No.2930 of 2021.

Pending the writ appeals, as per the order of the Hon'ble Division Bench, a new committee of experts was formed by the University as per the norms and as per the order in the writ petition. The new committee evaluated the API scores of both the candidates afresh. The originally preferred candidate, the appellant herein again secured more marks the writ petitioner / 1st respondent.

At the request of the first respondent the UGC was directed to ascertain the genuineness of the journals in which the appellant's papers were published. UGC also submitted a memo endorsing the genuineness of the journals submitted by the appellant.

Pursuant to the interim order of status quo, the appellant had been continuing as Principal. He attained superannuation and his services were directed to be continued till the end of the academic year. The Director of Collegiate Education has also approved of his continuation till the end of the academic year subject to the outcome



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of the writ appeal. Therefore, the closure of this writ appeal may be without any prejudice to the appellant's continuation.

The institution has already initiated further process of selection of a new Principal. As the directions in the writ petition as well as the writ appeals have been fully complied with, and as the prayer in the writ petition has been answered, nothing more remains to be done.

As nothing survives in the writ appeal and the order in the writ petition has been fully complied with, the writ appeal may be closed as withdrawn recording the above submissions.

It is therefore prayed that this Hon'ble Court be pleased to record this memo and close the writ appeal W.A.No.69 of 2022 as withdrawn and thus render justice.

Dated at Chennai on this the 19th day of February 2024.

Counsel for Appellant"

4. After filing these memos, on going through the same, the learned counsel for the first respondent in both the appeals had submitted that in respect of these memos, the first respondent wants to file a reply memo. Therefore, she sought for time till today. That is how the matter is posted today.

5. Today when the matter is taken up for hearing, the learned counsel for the first respondent filed reply memos in both the appeals. The reply memo in W.A.No.2930 of 2021 reads as follows:



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Reply Memo filed by the 1st respondent

The memo filed by the appellant in Writ Appeal No.2930/2021 seeking to close the W.A.No.2930/2021 as withdrawn is liable to be rejected for the following reasons:

- i. The writ appeal cannot be closed as withdrawn, it can only be dismissed as withdrawn.*
- ii. The appellant having enjoyed the protection of interim orders in their favour during the pendency of the appeal shall not be permitted to withdraw the appeal at the time of final hearing of the appeal, that too on conditions stipulated by the appellant.*
- iii. The 1st appellant has referred various communications in the memo which are not part of records of this Hon'ble Court in W.A.No.2930/2021 and none of the copies were served on this respondent.*

Therefore, the averments based on the self serving cannot be admitted without adjudication of the same.

- iv. The appeal will not become infructuous as the process of selection of the appellant to the Post of Principal is sub judice and the petition filed by this respondent in CMP No.19701/2023 to implead the members of selection committee is pending for adjudication.*

It is therefore prayed that this Hon'ble Court may be pleased to record the objections of the 1st respondent and reject the memo filed by the appellant.

DATED AT CHENNAI ON THIS THE 26TH DAY OF FEBRUARY, 2024.

COUNSEL FOR 1ST RESPONDENT"



W.A.Nos.2930 of 2021 & 69 of 2022

6. The reply memo filed in W.A.No.69 of 2022 reads as follows:

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Reply Memo filed by the 1st respondent

The memo filed by the appellant in Writ Appeal No.69/2022 seeking to close the W.A.No.69/2022 as withdrawn is liable to be rejected for the following reasons:

- i. The writ appeal cannot be closed as withdrawn, it can only be dismissed as withdrawn.*
- ii. The appellant has referred various communications in the memo which are not part of records of this Hon'ble Court in W.A.No.69/2022 and none of the copies were served on this respondent. Therefore, the averments based on the self serving memo cannot be admitted without adjudication of the same.*
- iii. The appeal will not become infructuous as the process of selection of the appellant to the post of Principal is sub judice and the petition filed by this respondent in CMP No.19701/2023 in W.A.No.2930/2021 to implead the members of selection committee is pending for adjudication.*
- iv. The appellant whose qualification to apply for the Post of Principal is in question and this respondent is ready to prove that the appellant is unqualified even to apply for the Post of Principal and the materials to prove this contention of the respondent is pending for the adjudication of this Hon'ble Court. Hence, the appellant himself cannot declare that nothing survives in the writ appeal.*

It is therefore prayed that this Hon'ble Court may be pleased to record the objections of the 1st respondent and reject the memo filed by the appellant.

DATED AT CHENNAI ON THIS THE 26TH DAY OF FEBRUARY, 2024.

COUNSEL FOR 1ST RESPONDENT"



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7. The contents of each of the memo filed by the appellants and the reply memos filed in both the appeals by the first respondent are taken on record.

8. Since ultimately the respective appellants had sought permission of this Court to record the memos and to permit the appellants to withdraw the respective writ appeals and in the reply memos filed by the first respondent in both the appeals he has also stated that the reply memos also be recorded and thereafter the writ appeals can be permitted to be withdrawn, recording the same, we are inclined to permit the appellants in both the cases respectively to withdraw the respective appeals.

9. Accordingly, both the appeals are dismissed as withdrawn. No costs. Consequently, connected miscellaneous petitions are also dismissed. It is made clear that withdrawal of these appeals would not prejudice the rights of the respective parties, both the appellants as well as the respondents in both the appeals in view of the development that has taken place during the pendency of the writ appeals.

(R.S.K.,J.) (K.B.,J.)
29.02.2024

Index : Yes
Internet : Yes
Neutral Citation : Yes
KST

Note : Issue order copy today (29.02.2024)



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To

- 1 Dr.K.Thamizharasan
Associate Professor And Head Dept. Of
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- 2 The Secretary To Government
Of Tamilnadu Dept. Of Higher Education
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R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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