



W.A.No.294 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.294 of 2020

S.Ginil Mon

... Appellant

Vs.

1. The Director of Collegiate Education,
College Road, Chennai-600006.

2. The Joint Director Of Collegiate Education,
Thirunelveli Region, Thirunelveli-627001.

3. The Administrative Secretary,
The CSI Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil 625001,
Kanyakumari Dist.

4. The Diocesan Employment Bureau,
The CSI Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil 625001,
Kanyakumari District.

5. The Secretary Cum Correspondent,
Scott Christian College,
Nagercoil 629003,
Kanyakumari Dist



W.A.No.294 of 2020

6. The Secretary Cum Correspondent,
Nesamony Memorial Christian College,
Marthandam 629165,
Kanyakumari District.

7. Dr. G.R.Bella,
Assistant Professor (Chemistry),
Nesamony Memorial Christian College,
Marthandam 629165, Kanyakumari Dist.

... Respondents

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in WP no.34280 of 2018 dated 22.08.2019.

For Appellants : M/s.S.V.Karthikeyan

For Respondent : Mr.D.Ravichander,
Special Govt. Pleader (Higher Education)
(for R1 and R2);

: Mr.L.Chandra Kumar (for R3 to R6);

: Mrs.A.V.Bharathi (for R7).

J U D G E M E N T

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The writ order dated 22.08.2019 in W.P.No.34280 of 2018 is under challenge in the present writ proceedings. The writ petitioner is the appellant before us.



W.A.No.294 of 2020

2. The writ petition was filed challenging the order or appointment of the 7th respondent to the post of Assistant Professor (Chemistry) in the 5th respondent College in proceeding dated 13.11.2018.

3. Admittedly, the order of appointment was made by Kanyakumari Diocese, Church of South India, an aided minority institution. Aided minority institutions are empowered to appoint candidates, however, in accordance with the provisions of the Act and Rules. The educational qualifications and other mandatory requirements cannot be dispensed with by the aided minority colleges while making appointments to the sanctioned posts.

4. The appellant raises several irregularities in the matter of appointment. However, such disputed facts need not be adjudicated in the writ proceedings. Tamil Nadu Private Colleges (Regulation) Act, 1976, provides an appeal against the orders passed by the competent authority under Section 37 of the Act. The appointment was made by an aided minority institution under Section 16(1) of the Act and such orders are susceptible to appeal under Section 37 .



W.A.No.294 of 2020

5. Factual findings are to be adjudicated before the appellate authority.

The findings of the appellant authority and the tribunals, constituted under the Act, are of paramount importance for the purpose of exercise of the power of judicial review by the High Court under Article 226 of the Constitution of India. Thus, exhausting the statutory remedy cannot be ordinarily dispensed with by the Courts.

6. In the present case, the order of appointment has been passed by the minority aided institution. Therefore, the appellant is at liberty to prefer an appeal. The writ Court, examining the validity of appointment in the absence of factual finding by the appellate authority, in our opinion ought not have been done. Thus, we set aside the writ order dated 22.08.2019 in W.P.No.34280 of 2018 with a liberty to the appellant to prefer an appeal to the competent appellate authority under Section 37 of the Act. While setting aside the writ order, we are inclined to sustain the appointment order dated 13.11.2018 issued by Kanyakumari Diocese, Church of South India, since we have granted liberty to the appellant to prefer an appeal under Section 37 of the Act. Thus, the 7th respondent shall continue his service in the post and meanwhile the appellant is at liberty to prefer an appeal which is to be adjudicated on merits and in accordance with law.



W.A.No.294 of 2020

WEB COPY 7. Accordingly, the writ appeal stands disposed of. No costs.

(S.M.S.J.,) (C.K.J.,)
24.06.2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
(sha)



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S.M.SUBRAMANIAM, J.

and

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