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W.P.No.31189 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM:

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

W.P.No.31189 of 2023

T.T.Lee Chengalvaraya Naicker
Polytechnic College,
Rep. by its Principal,
Vepery, Chennai – 600 007.

...Petitioner

-Vs -

1. The State of Tamilnadu,
Rep. by the Principal Secretary,
Department of Higher Education,
Fort St. George,
Chennai – 600 001.

2. The Directorate of Technical Education,
Rep. by its Director,
53, Sardar Patel Road,
Guindy, Chennai – 600 025.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order No.1264/C2/2022 dated 08.05.2023 issued by the second respondent and quash the same and consequently directing the respondents to approve the selection of candidates done by the Selection committee constituted by the petitioner college for filling of 15 vacant seats for non-teaching and ministerial staff posts in the



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petitioner college as listed in the Letter No.218/A3/2021 dated 24.02.2022 addressed by the petitioner.

For Petitioner : Mr.E.Manoharan
For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 08.05.2023, thereby rejected the proposal sent by the petitioner for approval of selected candidates for non-teaching staff post in the petitioner college.

2. The petitioner college is an aided non-minority institution. In the year 2020, there was a sanctioned post for ministerial and non-teaching staff lying vacant. Therefore, the petitioner college sent request to the second respondent for approval for filling up the said vacancies.

The vacant posts are as follows :-

Letter Particulars	Posts approved	
Letter No.2215/C2/2021 dated 08.02.2021	Office Assistant	1
	Typist	1
	Steno Typist	1
	Storekeeper	1
Letter No.29/C2/2021 dated 08.02.2021	Skilled Assistant	5
	Lab Assistant	9



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3. The request made by the petitioner was duly considered and approved to fill up those posts by the second respondent on condition that the second respondent's nominee shall be one of the members of the selection committee for selection of non-teaching staff to be appointed in aided institutions. The selection committee was constituted by the petitioner college headed by the Chairman of the Governing Council of the Polytechnic college, one member of the Governing Council and other members were the Principal/external subject experts from government/ government aided polytechnic colleges. Though the petitioner college had sent several representations to the second respondent to attend the staff selection committee meeting and also to nominate the selection committee nominee for the selection committee, no one attended the staff selection committee meeting. Therefore, the petitioner had no other option to go by selection process.

4. Accordingly, the petitioner college nominated selection committee consisting the Chairman of the Governing Council, Member of the Governing Council, Principal of Ramakrishna Mission Polytechnic College, Mylapre, who had represented from SC Community and the



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Head of the Department of the CPT, Chennai. After selection to the above posts, the petitioner had sent its proposal dated 17.02.2022 for approval. However, it was rejected on the ground that the second respondent's nominee was not part of the Selection Committee and the selection failed to follow the government order in G.O.Ms.No.303, Higher Education (C1) Department dated 12.12.2018.

5. The learned counsel appearing for the petitioner submitted that though the second respondent relied upon the circular of the year 1989 and 2007, as per the circular the selection committee for the post of non-teaching staff should be formed by the Principal of the College with three members. It doesn't say about the nominee of the second respondent. The said circular was reiterated in the Director of Technical Education's circular dated 28.12.2007. Therefore, the procedures for the recruitment of non-teaching staff have been duly followed by the petitioner college.

6. The second respondent filed counter and the learned Government Advocate appearing for the respondents submitted that the



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petitioner is a government aided polytechnic college wherein 90% of grant is received from the government. It is governed by the provisions given in the Grant-in-Aid Code as per G.O.(Ms)No.1282, Education Department dated 26.07.1967. Accordingly, all the appointment of entry level posts in the government aided institutions shall be made by the Selection through staff selection committee constituted as per G.O.(Ms).No.303 High Education (C1) Department dated 12.12.2018.

6.1. Subsequently, the provision of the Grant-in-Aid code was amended and replaced the Article 11 of the Grand-in-Aid Code of the Tamil Nadu Technical Education Department in G.O.(Ms).No.303, Higher Education (C1) Department dated 12.12.2018. Accordingly, the appointments to entry level posts in teaching, non-teaching, ministerial and basic staff category for the institution shall be made by direct recruitment by a Selection committee, constituted in accordance with the general orders of the government/Director from time to time, by calling for applications from qualified candidates through newspaper advertisement and by calling for a list of candidates from the employment exchange, by following the rule of reservation ordered by



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the government from time to time as per roster.

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6.2. He further submitted that the approval letter dated 08.02.2021 stated that in the person of the Commissioner of Technical Education's Nominee should be one of the members in the Selection Committee. However, without consisting the nominee of the second respondent, the petitioner college constituted Selection Committee and selected candidates for the non-teaching posts.

7. Heard, the learned counsel appearing on either side and perused the materials placed before this Court.

8. On perusal of records revealed that though the petitioner college repeatedly requested to send nominee of the second respondent for the selection of non-teaching staff, it was not considered and as such, the petitioner constituted the Selection Committee for selecting the non-teaching staff. In fact the Chairman of the Governing Council is none other than the retired Judge of this Court. That apart, the Selection Committee followed all methods of selection and duly selected the candidates. Finally the selected candidates to be approved by the second



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respondent.

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9. On perusal of records further revealed that the petitioner college had advertised in leading newspaper viz., The Hindu and Dhinathanthi and more than 900 candidates had applied for those posts. They were called for interview. Though the election notification was issued, the selection process made on and as such the Selection Committee proceeded with selection process. The Selection Committee consisting the above members conducted interview between 02.02.2022 to 07.02.2022. Thereafter, out of 18 posts, skill test and interview completed for 15 posts. Therefore, all the selection process including skill test, written test and oral interview were completed. In fact, all the process have been captured on CCTV to avoid controversy. After due selection, the petitioner had sent its proposal for approval to the second respondent.

10. On perusal of G.O.Ms.No.303 Higher Education (C1) Department dated 12.12.2018 also revealed about the amendment in Article No.11 of Grant-in-Aid Code and it is extracted hereunder :-



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“11. Selection of Staff:

(i) *Appointments to entry level posts in teaching, non-teaching, ministerial and basic staff category for the Institution shall be made by direct recruitment by a Selection Committee [constituted in accordance with the general orders of the Government / Director from time to time] by calling for applications from qualified candidates, through the Newspaper advertisement and by calling for a list of candidates from the Employment Exchange, by following the rule of reservation ordered by the Government, from time to time as per roster.*

(ii) *Promotions in a service or class to a selection category or to a selection grade shall be made on grounds of merit and ability, seniority, being considered only where merit and ability are approximately equal.*

(iii) *The Governing Council shall fill up the posts by promotion for promotional posts. The Governing Council shall, while making promotion, consider the claims of all the qualified persons in that Institution. If, however, no qualified persons are available, the vacancy shall be filled up by direct recruitment through Staff Selection Committee, by calling for applications from qualified candidates through Newspaper Advertisement and by calling for a list of candidates from the Employment Exchange, by following the rule of reservation ordered by the Government, from time to*



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time, after getting prior permission from the Director.”

Thus, it is clear that the appointment of the entry level post in teaching and non-teaching, ministerial and basic staff category shall be made through direct recruitment by a Selection Committee constituted in accordance with the general order of the government/Director from time to time, by calling applications from qualified candidates. Therefore, it doesn't refer about the nominee of the second respondent as part of the Selection Committee. The Selection Committee should be constituted in accordance with the general order of the government.

11. As stated supra, as per the circular of the general order, the Selection Committee of the petitioner college should be formed and it should consist three members. Accordingly, the Selection Committee was constituted and after following all methods of selection process, the Selection Committee selected the candidates for the 15 posts. Therefore, this Court finds no infirmity or illegality in the selection done by the Selection Committee to the post of non-teaching staff of the petitioner college. Hence, the second respondent ought not to have rejected the proposal sent by the petitioner for approval of the selected candidates.



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12. In view of the above, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the impugned order dated 08.05.2023 passed by the second respondent in No.1264/C2/2022, is hereby quashed. The second respondent is directed to approve the selection of the candidates done by the Selection Committee of the petitioner college to their respective posts of 15 vacant seats for non-teaching and ministerial staff posts, forthwith.

13. With the above directions, the Writ Petition stands allowed.
There shall be no order as to costs.

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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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To

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Department of Higher Education,
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2. The Director,
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