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W.P.No.13785 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2024

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.No.13785 of 2017
and W.M.P.Nos.14980,14981 & 18988 of 2017

Dr.S.Saravanan

...Petitioner

VS.

- 1.State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Additional Chief Secretary/ Commissioner,
Commissionerate/ Directorate of Indian Medicine and Homeopathy,
Arumbakkam, Chennai -106.
- 3.Dr.P.Rathamani

... Respondents

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings Ref.No.2710/E1/1/2017 dated 28.04.2017 appointing the 3rd respondent as the Principal In-charge of the Government Homeopathy Medical College and Hospital, Thirumangalam, Madurai and to quash the same as illegal and unsustainable in law and for a

1/10



W.P.No.13785 of 2017

consequential direction to the 2nd respondent to appoint the petitioner herein as the Principal of the said college and pass such further orders.

For Petitioner : Ms.Kavitha Rameshwar

For RR1 & 2 : Mr.C.Sangamithirai
Special Government Pleader

For R3 : Ms.D.Menakshi
for Mr.S.Rajendiran

ORDER

This Writ petition has been filed challenging the order of the 2nd respondent in his proceedings Ref.No.2710/E1/1/2017 dated 28.04.2017 appointing the 3rd respondent as the Principal In-charge of the Government Homeopathy Medical College and Hospital, Thirumangalam, Madurai and to quash the same as illegal and unsustainable in law and for a consequential direction to the 2nd respondent to appoint the petitioner herein as the Principal of the said college

2. Heard Ms.Kavitha Rameshwar, learned counsel for the petitioner, Mr.C.Sangamithirai, learned Special Government Pleader for the respondents 1 and 2 and Ms.D.Menakshi, learned counsel for Mr.S.Rajendiran, learned counsel for 3rd respondent.

2/10



W.P.No.13785 of 2017

WEB COPY

3. The case of the petitioner is that he has acquired the BHMS (Bachelor of Homeopathic Medicine and Surgery) Degree in November 1997 and registered with the Homeopathy Council and was appointed as a tutor in Vinayaga Mission Hospital, Salem and thereafter, served as a Lecturer at the Dr.Hahnemann Homeopathy Medical College. He was promoted as a Reader and worked till 2005. He completed MD Course in the year 2009 and worked as a Reader (In-charge Professor) and a Post-Graduate Guide at the Saratha Krishna Homeopathy Medical College, Kulasekaram at Kanyakumari District from 2009 to 2012 and then as a Professor from 2012 to 2013. Thereafter, he was appointed as a Professor (Homeopathy) in the Government Homeopathy Medical College and Hospital, Thirumangalam, Madurai on 28.02.2014 and had been working as a Professor till date.

4. The grievance of the petitioner is that the 3rd respondent who has been given the additional charge of the post of Principal by the order of the 2nd respondent dated 28.04.2017 did not possess even the essential



W.P.No.13785 of 2017

qualification as prescribed by the Central Council of Homeopathy Rules. As such the order dated 28.04.2017 of the 2nd respondent, appointing the 3rd respondent as Principal of the 3rd respondent's college as additional in-charge is under challenge.

5. The learned counsel for the petitioner submits that the 3rd respondent did not possess the basic qualification required for appointment as Principal under the Recruitment Rules prescribed under the Central Rules of Homeopathy. The learned counsel further submits that the petitioner is the senior most Professor in the 3rd respondent's College and as such appointing the 3rd respondent by ignoring the petitioner who is fully qualified is against the Recruitment Rules and sought to set aside the order dated 28.04.2017 of the 2nd respondent.

6. On behalf of the respondents 1 and 2, a counter has been filed. Placing reliance on the counter affidavit, the learned Special Government Pleader appearing for the respondents 1 and 2 has considered the entire issue comprehensively in accordance with their relevant Rules and the



W.P.No.13785 of 2017

prayer which the petitioner sought in this Writ Petition has been complied with vide issuing order in G.O.Ms.No.255, Health and Family Welfare Department dated 19.07.2017 and Ref No.10658/E1/1/2011-2 dated 20.07.2017. For better appreciation, relevant paragraph 9 (iii) is extracted hereunder:-

“ 9(iii) It is submitted that based on G.O.(Ms) No.255, Health and Family Welfare Department dated 19.04.2017, Dr.P.Rathamani, formerly Professor, Government Homeopathy Medical College, Thirumangalam, Madurai who has been formerly posted to hold the additional charge of the post of Principal, Government Homoeopathy Medical College, Thirumangalam, Madurai has been relieved from the post of Principal incharge and as well as from the post of Professor of the College. Dr.C.Jeyam, Professor of the College, being senior as per Tamil Nadu Public Service Commission Seniority has been posted to hold the full additional charge of the post of Principal, Government Homoeopathy Medical College, Thirumangalam, Madurai vide this Office under Ref.No.10658/E1/1/2011-2 dated 20.07.2017.”

7. It is clearly stated that in the place of 3rd respondent/



W.P.No.13785 of 2017

Dr.P.Rathamani has been relieved from the additional charge of Principal incharge of Government Homeopathy Medical College, Thirumangalam, Madurai and one Dr.C.Jeyam, Professor of the College, being senior as per Tamil Nadu Public Service Commission Seniority has been posted to hold the full additional charge of the post of Principal, Government Homeopathy Medical College, Thirumangalam, Madurai. In view of the same, the learned Special Government Pleader would submit that nothing survives in this Writ Petition for further adjudication at present and sought for dismissing the Writ Petition.

8. I have heard the submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.

9. On careful perusal of the material on record, it appears that in view of the order passed by the respondents 1 and 2 in G.O.Ms.No.255, Health and Family Welfare Department dated 19.07.2017 and a consequential order in Ref No.10658/E1/1/2011-2 dated 20.07.2017, the 3rd



W.P.No.13785 of 2017

respondent has been relieved from the additional charge from the post of Principal, Government Homeopathy Medical College, Thirumangalam, Madurai and one Dr.C.Jeyam, Professor of the College, being senior as per Tamil Nadu Public Service Commission Seniority has been posted to hold the full additional charge of the post of Principal, Government Homeopathy Medical College, Thirumangalam, Madurai.

10. In view of the same, in the considered opinion of this Court, nothing survives in this Writ Petition for further adjudication and in the light of the G.O.Ms.No.255, Health and Family Welfare Department dated 19.07.2017, the prayer in this Writ Petition has become infructuous.

11. Accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to ventilate his grievances available under law, if he is fully aggrieved by the G.O.Ms.No.255, Health and Family Welfare Department dated 19.07.2017 and Ref No.10658/E1/1/2011-2 dated 20.07.2017 of the respondents 1 and 2. No costs. Consequently, connected miscellaneous petitions are closed.



W.P.No.13785 of 2017

WEB COPY

04.01.2024

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

To

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