



W.P.(MD)No.768 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.768 of 2024

and

W.M.P.(MD)Nos.777 and 779 of 2024

The Principal and Secretary,
Lady Doak College,
Madurai – 625 002,
Madurai District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,
No.268, Palam Station Road,
Sellur, Madurai – 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent Joint Director in O.Mu.No.5359/E1/2023 dated 23.05.2023, quash the same and further direct the third respondent Joint Director to approve forthwith the appointment of 3 non-



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teaching staff (Name List annexed) in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f. 22.02.2023.

For Petitioner : Mr.K.Ragatheesh Kumar
For M/s.Isaac Chambers

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.Ragatheesh Kumar, For M/s.Isaac Chambers, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. This Writ Petition has been filed seeking to quash the order dated 23.05.2023 and further direct the third respondent to approve forthwith the appointment of 3 non-teaching staff (Name List annexed) in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f. 22.02.2023.

3. The petitioner College has appointed 3 persons in the cadre of Record Clerk and Office Assistant on 22.02.2023 respectively and the details of those persons are as follows:



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S.No.	Name	Post	Date of Appointment
1.	S.Lilly Pushpam	Record Clerk	22.02.2023
2.	R.Selvarathi	Record Clerk	22.02.2023
3.	P.Samson Suresh Kumar	Library Assistant	22.02.2023

4. Mr.K.Ragatheesh Kumar, learned counsel for the petitioner college submitted that the persons namely, Mr.C.Karuppiah, S.Saravanan and Muthumeenakshi respectively who were working in the petitioner college, were promoted as Junior Assistant / Laboratory Assistants respectively, causing vacancies to the posts of Record Clerk / Library Assistant respectively. Since the said vacancies have arisen on account of promotion in the petitioner college, the College had appointed the persons namely, S.Lilly Pushpam, R.Selvarathi and P.Samson Suresh Kumar on 22.02.2023. When the proposal was sent for approval to the third respondent, it was rejected stating that the College should have obtained prior permission from the Director of Collegiate Education and also sought for the particulars as to whether any person had applied for appointment under compassionate scheme. Hence, the present petition is filed.

5. However, the learned counsel for the petitioner submitted that the Tamil Nadu Private Colleges (Regulation) Act, 1976 do not mandate any prior permission / approval from any authority before filling up of vacancies falling



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in sanctioned posts. He also further submitted that the scheme for compassionate appointment will not be applicable to the private aided colleges unless the Statute/By-laws of the college provides a scheme of compassionate appointment. In fact, there is no such provision for compassionate appointment in the petitioner college.

6. The issue involved in this writ petition for filling up of vacancies against the sanctioned strength of Non-teaching staff by the Minority Institutions is no longer a *res integra*. The Hon'ble a Division Bench of this Court in the case of ***P.Ravichandran v. State of Tamil Nadu and others*** reported in ***[(2013) 7 MLJ 641]*** in ***W.A.No.2318 of 2011 dated 11.10.2013***, has settled that issue and, following the said judgment, a batch of writ petitions, i.e., in ***W.P.(MD)Nos.14115 to 14119 of 2016 etc. (batch cases), dated 19.08.2016***, ordered the official respondents therein to accord approval for filling up of the vacancies against sanctioned posts of non-teaching Staff by the Private Aided Colleges.

7. Any college, either minority/private/aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal etc., against a sanctioned post already approved by the college authorities,



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without even obtaining prior permission from the Government. In the case on hand, admittedly, the aforesaid persons have been appointed against vacancies relating to sanctioned posts as Non-teaching staff in various cadres and therefore, by following the above cited case laws, the impugned order is liable to be set aside.

8. In view of the above stated reasons and in the light of the earlier judicial pronouncements, this Writ Petition is **allowed** and the impugned proceedings in O.Mu.No.5359/E1/2023 dated 23.05.2023 is set aside. The third respondent is directed to approve the appointment of 3 non-teaching staff mentioned above in the petitioner's college and disburse the grant-in-aid towards their salary and allowances w.e.f. 22.02.2023 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

WEB COPY

- 1.The Secretary,
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