



W.P(MD)No.3854 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3854 of 2024

and

W.M.P.(MD)Nos.3739, 3740 & 5036 of 2024

Seethalakshmi Achi College for Women,
Represented by its Secretary,
Thiru.O.A.A.A.Ap.Annamalai Chettiar,
Karaikudi-Trichy Road Pallathur,
Sivagangai,
Tamil Nadu – 630 107.

... Petitioner

Vs.

- 1.The Director of Collegiate Education,
Institute of Advance Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai,
Tamil Nadu – 600 015.
- 2.The Joint Director of Collegiate Education,
Regional Joint Director of Collegiate Education,
Palam Station Road,
Sellur, Madurai – 625 002.
- 3.AP.V.Sundaram
- 4.A.Valli @ Valliammai
- 5.Muthu Adaikappan



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6.MA.Kannan Periyakaruppan

7.MA.Ramaiah Kumar

8.Sarathal Alagappan

9.The Dean,
CDC Alagappa University,
College Road,
Alagappapuram,
Karaikudi, Sivagangai District.

10.Nageshwari Perumal

11.S.Padmadevi

12.R.Saral Manjula

13.Deivanai

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records related to the impugned proceedings submitted by the fourth respondent on the file of the first respondent, seeking approval for the unlawful change of Secretaryship of College Committee along with Enclosures, dated 12.06.2023 that violate Sections 11,12,13 and 14 read with Rule 8 and 10 the Private Colleges Regulation Act and Rules, 1976 quash the same.

For Petitioner : Mr.Mohammed Ashik Jamam

For Respondents : Mr.M.Sarangan
Additional Government Pleader
for R.1 & R.2



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Mr.P.R.Raman
Senior Counsel
for Mr.V.R.Shanmuganathan
for R.3 & R.4

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Senior Counsel assisted by the learned counsel appearing for the respondents 3 and 4.

2.This writ petition has been filed by Thiru.O.A.A.A.Ap.Annamalai Chettiar. He challenges the resolution dated 25.05.2023 passed by the petition mentioned Trust Board and the resolution dated 12.06.2023 passed by the petition mentioned College Committee which have been submitted by the fourth respondent before the first respondent.

3.Such a challenge by itself may not be maintainable. That is why I have chosen to mould the relief. I take it that the petitioner wants this Court to forbear the authorities from considering the aforesaid resolutions.



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4.Thiru.O.A.A.A.Ap.Annamalai Chettiar / the petitioner herein was approved as Secretary of Seethalakshmi Achi College for Women with effect from 10.11.2021. His tenure as per the statutory Rule would end on 09.11.2024. By the impugned resolutions, the petitioner has been removed from his post and the third respondent has been chosen.

5.Rule 9(2) of the Tamil Nadu Private Colleges Regulations Rules, 1976 is as follows:

“9.Secretary of the Committee-

(2) The term of office of the Secretary shall ordinarily be three years. However, he/she shall be eligible for re-nomination for subsequent terms. If the educational agency intends to change the Secretary within the period of three years, it shall do so only with the prior approval of the Director. Application for approval of change in the Secretaryship shall be made to the Director in Form 6.”

Form -6 reads as follows:



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FORM 6

(See sub-rule (2) of Rule 9 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976)

APPLICATION FOR APPROVAL OF CHANGES IN SECRETARYSHIP

1.	Name of college	
2.	Name of approved Secretary	
3.	Name of new secretary	
4.	Reason for change of secretaryship	
5.	Whether a copy of resolution of the educational agency approving the new secretary is enclosed	
6.	Date from which change of secretaryship takes effect	

DECLARATION BY THE INCOMING SECRETARY

I hereby declare that I have taken charge of the secretaryship of the college with effect from _____ and that I have received from the previous secretary all the relevant records, cash, etc.

Place:

Date:

Signature

The Statutory Rule categorically states that if the educational agency intends to change the Secretary before the expiry of the three year period, it can be done only with the prior approval of the Director. Admittedly till date, the Director has not given his approval. So long as there is no



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approval from the Director, the incumbent will continue to hold the office and discharge his functions. The resultant effect is that Thiru. O.A.A.A.Ap.Annamalai Chettiar continues to be Secretary as on date. His fate will depend upon the order to be passed by the first respondent. The impugned resolutions should be taken as intention exhibited by the Educational Agency to change the Secretary. It will come into the effect only if the Director gives his approval and not before that. If the Director declines to give approval, the resolution cannot be implemented at all.

6.Rule 9 (2) of the Tamil Nadu Private Colleges Regulations Rules, 1976 does not appear to be rigorously worded. It states that if the educational agency intends to change the Secretary before the expiry of his tenure, it shall do so only with the prior approval of the Director. The application has to be submitted in Form – 6. The format as appended in the statute has been extracted above. The declaration to be made by the incoming Secretary must state that he had taken charge of the secretaryship and that he had received from the previous secretary all the relevant records, cash etc. While the Rule talks about obtaining prior approval before effecting any change, the format in which the application for approval of change has to be made is not on the same lines. I would



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have held that the Rule 9(2) will prevail over the Form - 6 but I cannot say so because Rule 9(2) only states that the application should in Form –

6. Whenever Courts are faced with such issues of interpretation, the endeavor must be to harmonise the apparent incongruities. I therefore hold that Rule 9 (2) read with Form – 6 must be understood to mean that while the educational agency can pass a resolution for changing the secretary, it will have effect only after the Director accords his approval. In other words, the incumbent secretary will demit office only if there is prior approval from the Director. The declaration column in Form – 6 will read as follows:

“I hereby declare that I will take charge of the secretaryship of the college with effect from the date of approval by Director of Collegiate Education, Chennai.”

Interestingly, the Form – 6 sent in this case contains declaration on the same lines. The contesting private respondent is probably aware that he has not taken charge of secretaryship and that he has to wait till the competent authority gives green signal.



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7.The learned counsel appearing for the petitioner argued that the impugned resolution is not in consonance with the terms of the Trust deed. This aspect of the matter need not be gone into at this stage. The first respondent will decide such factual issues in the first instance. In fact, when the third respondent filed W.P(MD)No.25228 of 2023 for directing the authorities to acknowledge the resolution passed by the Trust, this Court vide order dated 18.10.2023 disposed of the writ petition in the following terms:

“4. Considering the above said facts, the first respondent is directed to consider the said Form-6 submitted by the writ petitioner on merits and in accordance with law after giving due opportunity to the writ petitioner as well as his rival claimant, namely, Mr.Annamalai. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.”

The direction given by this Court more than protects the rights of the petitioner. The petitioner will have to be given due opportunity before any order is passed by the first respondent.

8.Leaving open the rights of both the parties, the writ petition is disposed of by directing the first respondent to abide by the order made



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in W.P(MD)No.25228 of 2023. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

05.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

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Institute of Advance Study in Education Campus,
577, Anna Salai, Saidapet,
Chennai, Tamil Nadu – 600 015.

2.The Joint Director of Collegiate Education,
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