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W.P.(MD)NO.8801 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8801 of 2024 AND
W.M.P.(MD)Nos.8021 & 8024 of 2024

P.Pandian,
Secretary,
Kallar Kalvi Kazhagam,(Regd.No.138/67),
Pasumpon Muthuramalinga Thevar College,
Usilampatti – 625 532,
Madurai District.

... Petitioner

Vs.

1. The Director of Collegiate Education Department,
Directorate of Collegiate Education,
EVK Sampath Building, 9th Floor,
College Road, Chennai – 600 006.
2. The Joint Director of Collegiate Education Department,
Madurai Regional Directorate of Collegiate Education,
Palam Station Road, Opp. to Ganapathy Silks,
Sellur, Madurai – 625 002.
3. The Principal (In Charge),
Pasumpon Muthuramalinga Thevar College,
Usilampatti, Madurai District – 625 532.
4. A.Jothirajan,
Principal (In Charge),
Pasumpon Muthuramalinga Thevar College,
Usilampatti – 625 532,
Madurai District.
5. Thamaraiselvan
(R-5 is impleaded vide order dated 29.04.2024
in W.M.P.(MD)No.9182 of 2024)



6. L.S.Balakrishnan

(R-6 is impleaded vide order dated 29.04.2024
in W.M.P.(MD)No.9186 of 2024)

7. R.Ayyar,

Kallar Kalvi Kazhagam, Usilampatti,
Pasumpon Muthuramalinga Thevar College,
Usilampatti Taluk, Madurai District.

(R-7 is impleaded vide order dated 29.04.2024
in W.M.P.(MD)No.9327 of 2024)

... 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 relating to the proceedings of the 2nd respondent in Na.Ka. No.10479/Aa/2023 dated 12.12.2023 and 20.03.2024 and quash the same as illegal and consequently direct the respondents not to interfere with the Management Affairs of the private self finance courses including the admissions that are being conducted by the Pasumpon Muthuramalinga Thevar College.

For Petitioner : Mr.M.Sricharan Rangarajan,
Senior counsel,
for Mr.C.Jeganathan.

For R-1 & R-2 : Mr.M.Sarangan,
Additional Government Pleader.

For R-3 & R-4 : Mr.R.Ganesh Prabu

For R-5 : Mr.V.Surendran

For R-6 : Mr.S.Balaji

* * *

**ORDER**

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Heard the learned Senior counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the private respondents.

2. The case on hand pertains to the affairs of the self financing section of Pasumpon Muthuramalinga Thevar College, Usilampatti. Kallar Kalvi Kazhagam is its educational agency. The election to its executive committee was conducted in March 2020. Even though its tenure has expired, a new committee is yet to be elected. Thiru.Pandiyan was elected as Secretary by the executive committee in the election held in the year 2020. He challenges the impugned proceedings dated 12.12.2023 and 20.03.2024 issued by the Joint Director of Collegiate Education, Madurai authorising the Principal in-charge of the college to maintain the accounts pertaining to the self-financing section.

3. The learned Senior counsel reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned proceedings and grant relief as prayed for.



4. The stand of the petitioner is contested both by the department as well as the Principal-in-charge and also the impleaded respondents. Their stand is that Pasumpon Muthuramalinga Thevar College is an aided college and that one cannot make a distinction between the aided section and the self financing stream. It is pointed out that the petitioner who was elected as Secretary in the year 2020 and Thiru.L.S.Balakrishnan who was elected as President are not on the same page. There is a clear dispute between the two. The petitioner would contend that Balakrishnan was removed from the post of President and he has filed civil suit challenging the same. The learned counsel appearing for the fifth respondent as well as the sixth respondent would claim that the resolution whereby Balakrishnan was removed is not genuine. Mr.Sarangan, learned Additional Government Pleader pointed out that since there is a dispute among the management, the department was justified in invoking G.O.Ms.No.1021 Education Department dated 02.09.1985. He pointed out that if the present arrangement itself is going to be implemented, this would cause confusion. The respondents called upon this Court to dismiss this writ petition.

5. I carefully considered the rival contentions and went through the materials on record.



follows:-

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follows:-

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8. A careful reading of both the proceedings would indicate that they refer to the earlier order dated 14.08.2023 passed by me in Cont.P.(MD)No.118 of 2023 in W.P.(MD)No.21365 of 2022. The said order reads thus:-

“ Contending that the order passed by this Court has been breached, the present contempt petition came to be filed.

2.The petitioner was suspended from service on 13.08.2021. As per statutory provisions, at the end of four months period, he is deemed to have been reinstated. He was reinstated in service on 13.12.2021. However, on 09.05.2022, he was relieved from service. Challenging the same, the petitioner filed W.P.(MD)No.21365 of 2022. I directed the college management to pay the salary arrears for the period from 10.05.2022 till the date of passing of the order. The purport of the order was that either the petitioner should be given employment or he must be paid the salary. The petitioner has neither been given employment nor he has been paid salary. The stand of the



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learned Additional Government Pleader is that the college is presently under direct payment. In my view, citing the said position, the order passed by this Court cannot be allowed to be frustrated. The petitioner has also not been paid the arrears from the said date. The petitioner has not been dealt with in the manner known to law.

3.Since there is no college committee and no Special Officer has been appointed, the Joint Director of Collegiate Education has authorised the Principal to operate the college account pertaining to the self finance section.

4.I, therefore, direct the Joint Director of Collegiate Education, Madurai Region to forthwith issue proceedings permitting the petitioner to rejoin the duty.

5.Call this case on 21.08.2023 for reporting compliance.”

Paragraph No.3 is a mere recording of submission made by learned counsel across the bar. I am not able to recount which counsel made such a submission. But then, it is a mere recording of the submission. This could not have formed the basis for passing the impugned proceedings.



On the basis of paragraph No.3 of the order dated 14.08.2023 in Cont.P.

(MD)No.118 of 2023, both the proceedings have been issued. This is evident from the expression used as “இதனடிப்படையில்”(on this basis).

The department had already authorised the Principal to operate the college account pertaining to the self-financing section. I called upon the learned Additional Government Pleader to clarify if prior to 14.08.2023, any such authorisation letter was issued. It is now reiterated that vide letter bearing Na.Ka.No.1502/௨௭ 2/2021 dated 17.04.2023, permission was granted to the Principal in-charge to maintain separate accounts. Based on the said communication, the aforesaid submission was made and it was recorded by me. The submission was correct and the recording was also accurate. But then, recording of a fact based on the submission made across the bar could not have furnished the basis for issuing the impugned proceedings. The impugned proceedings will have to be independently justified. It is true that non-quoting of the relevant provision will not vitiate the proceedings. The learned Additional Government Pleader would state that the impugned proceedings can be justified with reference to G.O.Ms.No.1021 Education Department dated 02.09.1985. The said GO. Reads as follows:-



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W.P.(MD)NO.8801 OF 2024

GOVERNMENT OF TAMIL NADU

Abstract

Aided Colleges - Dispute in the management of aided colleges authorising the Regional Deputy Directors of Collegiate Education to attend to certain items of work relating to administration of teachers - Orders - Issued.

EDUCATION DEPARTMENT

G.O.Ms.No.1021

Dated: 2.9.1985

From:

From the Director of Collegiate Education, Madras
L.R.C.No.132435/No 7/85, dt 09.01.1985

ORDER:

The Government have examined the question of permitting the Regional Deputy Director of Collegiate Education to attend to certain items of work relating to service matters of teachers of aided colleges, which are mentioned in the list of salary of the teachers, whenever there is dispute in the management of aided colleges and they permit the Director of Collegiate Education to authorise the Regional Deputy Director of Collegiate Education concerned to attend to the following items of work of aided colleges concerned in the absence of the Secretary to the College, where the disputes in managements/where there is dispute over the Secretary to the aided colleges:

1. To draw and disburse the salary of the staff of aided colleges when there is dispute in the management.
2. To sanction leave and increment to the employees.
3. To sign papers relating to provident fund (Accumulation, Transfer, Advance and Closure).
4. To sign pension papers relating to reemployment upto the end of the Academic year concerned.
5. To sign the papers relating to fixation of pay and selection grade.
6. To sign the papers relating to the loans and advances admissible as per rules (including disbursement) T.P.F. advance other loans and advances if any admissible as per rules.
7. To relieve the employees consequent on the resignation and retirement as per rules.
8. To relieve the employees who go on leave/deputed to higher studies etc.

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9. To sign papers relating to the deputation of teachers under F.I.P. of University Grants Commissions Scheme and to correspond with the UGC in connection with the salary of the substitutes appointed against the vacancies caused due to the deputation of the teachers to the higher studies under the above said scheme.

10. To make entries in the Service Books.

11. To correspond with the university to get the approval of the appointment of the teachers appointed by the legal Secretary of the college before the dispute.

12. To assess grant in respect of the teachers appointed by the legal Secretary before the dispute, without providing the formal proposal from the Secretary of the college for the approval of the appointment by the Government, provided their appointments have been approved by the University concerned.

13. To appoint substitutes in the approved vacant posts (i.e. new posts, leave vacancy, retirement and resignation vacancy etc.) only on temporary basis. The continuance of such employees may be decided by the management after the dispute is settled and the direct payment system is revoked.

14. To send proposals to Director of Collegiate Education for upgradation of teachers as per rules.

2) The Regional Deputy Directors of Collegiate Education should hand over the lawful Secretary of the colleges after the dispute is settled with proper acknowledgement all the records relating to the above items of work which were attended to by him during the period in which the direct payment of salary was made to the employees of the college by the Regional Deputy Director of Collegiate Education.

(By order of the Government)

T. P. SUNDARAJ
Commissioner & Secretary to Govt.

(True Copy)

As rightly pointed out by the learned Senior counsel, this GO. will kick in only where there is a dispute over the Secretaryship of the aided



colleges. G.O.Ms.No.1021 dated 02.09.1985 is interventionist in nature.

Any law or G.O. conferring such power to intervene in the management of private bodies must be strictly construed. The writ Court will not be justified in adding words. The G.O. defines the expression “management dispute” and it uses the word “secretaryship”. It is true that there is dispute regarding the removal of Thiru.Balakrishnan from the post of President. That is irrelevant. There must be dispute regarding Secretaryship. That alone is relevant. If there is no dispute as regards secretaryship, the GO. cannot kick in. The impugned proceedings nowhere refer to any such dispute over the Secretaryship of the college in question. It is true that the tenure of the committee has expired. The learned counsel appearing for Mr.Thamaraiselvan drew my attention to Section 15(4) of the Tamil Nadu Societies Registration Act, 1975. This provision was already dealt with by me vide order dated **20.07.2022** in ***W.P.(MD)No.13642 of 2022 etc. batch(M.T.M.Thangaraj V. The District Registrar and others)***. I had held that till the new committee is elected, the earlier committee will hold charge in adhoc capacity and by way of interim arrangement; but they cannot take any major decision having bearing on the institution.



9. In this view of the matter, the impugned proceedings are set

aside and the writ petition stands allowed. The outcome of this writ petition will not mean that the writ petitioner Thriu.P.Pandian has been empowered in his individual capacity. 16 persons were elected as members of the executive committee in the election held in March 2020. The new committee has not been elected. The old committee will have to function in an adhoc manner. The executive committee will have to maintain the accounts of the self-financing section of the petitioner college. This writ petition stands allowed. It is of course open to the jurisdictional civil Court to pass appropriate order in this regard. This order will be without prejudice to any direction that may be obtained before the jurisdictional civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

04.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To:

1. The Director of Collegiate Education Department,
Directorate of Collegiate Education,
EVK Sampath Building, 9th Floor,
College Road, Chennai – 600 006.
2. The Joint Director of Collegiate Education Department,
Madurai Regional Directorate of Collegiate Education,
Palam Station Road, Opp. to Ganapathy Silks,
Sellur, Madurai – 625 002.



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G.R.SWAMINATHAN,J.

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