



WP(MD) No.19978 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.19978 of 2022

and

W.M.P(MD)Nos.14539 & 14541 of 2022

The Secretary

St. Ignatius College of Education (Autonomous),

Palayamkottai 627 002,

Tirunelveli District.

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary,

Department of Higher Education,

Fort St. George,

Chennai - 600 009.

2.The Director of Collegiate Education,

College Road,

Chennai 600 006.



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3.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 002.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent Director of Collegiate Education in Na.Ka.No.11336/F4/2019 dated --.12.2021 (signed as 27.12.2021) and the consequential order passed by the 3rd respondent Joint Director of Collegiate Education in Na.Ka.No.1298/E2/2019 dated 01.02.2022 denying approval to the appointment of Dr.A.Jeya Sudha as Assistant Professor in History, Quash the same as illegal and further Direct the 3rd respondent Joint Director to approve forthwith the appointment of Dr.A.Jeya Sudha as Assistant Professor in History in the petitioner college w.e.f., 16.07.2018, with all attendant benefits including arrears of salary and allowances.



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For Petitioner : Mr.K.Ragatheesh Kumar

for M/s.Isaac Chambers

For Respondents : Mr.T.Amjadkhan

Government Advocate

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent Director of Collegiate Education in Na.Ka.No.11336/F4/2019 dated --.12.2021 (signed as 27.12.2021) and the consequential order passed by the 3rd respondent Joint Director of Collegiate Education in Na.Ka.No. 1298/E2/2019 dated 01.02.2022 denying approval to the appointment of Dr.A.Jeya Sudha as Assistant Professor in History, quash the same as illegal and further Direct the 3rd respondent Joint Director to approve forthwith the appointment of Dr.A.Jeya Sudha



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as Assistant Professor in History in the petitioner college w.e.f., 16.07.2018, with all attendant benefits including arrears of salary and allowances.

2. Heard Mr.K.Ragatheesh Kumar, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

3. The petitioner has appointed one Jeya Sudha to the post of Assistant Professor in History and sent a proposal to appoint her to the third respondent Joint Director for granting approval and the same has been returned seeking certain clarifications (i) the return endorsement would comprise getting prior approval from the Director to fill up the post, (ii) Form 7-A not enclosed, (iii) newspaper advertisements were not given and (iv) the candidates took part in the selection was not enforced.



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4. The learned counsel for the petitioner submitted that the petitioner college is an aided minority institution and it comes under the stand alone institution. So far as the prior permission is concerned, the petitioner institution being a minority institution is exempted from getting prior permission. The law on this point has been well settled by the Division Bench of this Court in ***P.Ravichandran Vs. State of Tamil Nadu, rep. by Secretary to Government, Department of Higher Education, Chennai and others*** reported in **2013(7) MLJ 641**. In the said judgment, it is held as under :

“10. In paragraph 20 of the said order, such a requirement was held to be not necessary for a Minority Institution, in the following manner:

"20. In the light of the above findings as well as the decisions, we conclude this Judgment in the following manner:

(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior



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permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.

(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government."

11. In view of the aforesaid decision, the claim of the respondents that their permission was not obtained before appointing these two teachers



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cannot be legally unsustainable.

*12. Likewise, in the aforesaid decision in **P. Ravichandran's case** (cited supra), the Hon'ble Division Bench had also observed that the qualification of the teaching staff, to be appointed, requires to be approved only by the University, to which the college is affiliated. In the instant case, the last reason assigned by the respondents for rejection of the proposal, is that the qualification of these candidates is not supported by an equivalence certificate issued by the competent authority. This reasoning is opposed to the observations made by the Hon'ble Division Bench in **P.Ravichandran's case** (cited supra). While the concerned University is the competent authority to approve the qualifications of the teaching staff, the State Governmental Educational Authorities will have no jurisdiction to scrutinize or question such educational qualifications.”*



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5. In fact, by citing the very same judgment in similar such issue involved in ***W.P(MD)Nos.4636 and 4640 of 2021***, this Court has held as above by holding that prior approval is not necessary in respect of appointment made by the minority institution and it is the University which is competent to approve the qualification of the teaching staff and the State Government Educational Authorities will not have any jurisdiction to scrutinize such question in educational qualification.

6. So far as this case is concerned, the limited point on which approval has been rejected, is only with regard to prior approval and it has got nothing to do with the educational qualification of the appointees.

7. So far as Form-7A is concerned, the petitioner has submitted that Form-7A is not necessary, because Form-7A is only an agreement form and agreement signed by the appointees and the



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College Committee. Since the appointment of College Committee itself is excluded under Section 11 of the Tamil Nadu Private Colleges Regulation Act, the question of furnishing the Form-7A will not arise.

8. The rest of the requirements have been complied with by the petitioner-school and hence, the respondent shall reconsider the proposal of the petitioner and pass afresh orders.

9. In view of the above stated reasons, the writ petition is **allowed** and the impugned order in Na.Ka.No.11336/F4/2019 dated --.12.2021 (signed as 27.12.2021) of the 2nd respondent and the consequential order in Na.Ka.No.1298/E2/2019 dated 01.02.2022 of the 3rd respondent are set aside. The respondents are directed to reconsider the proposal of the petitioner college and pass appropriate orders in the light of the above observation and also in the light of the earlier judicial pronouncements and also considering



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the compliance made by the petitioner so far as with regards to the essential compliance and pass orders for approving the appointment of Jeya Sudha within a period of four weeks. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2024

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

RM



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To

1.The State of Tamil Nadu

Rep. 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,
Tirunelveli Region,
Tirunelveli - 627 002.



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.19978 of 2022

Dated:
18.06.2024