



W.P.(MD)No.22526 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.22526 of 2017

and

W.M.P.(MD)Nos.18823 & 18824 of 2017

S.Ismail

: Petitioner

Vs.

1.The Joint Director of School Education (Vocational),

O/o. the Joint Director of School Education,
Chennai – 6.

2.The Director of School Education,

O/o. the Director of School Education,
DPI Complex,
College Road,
Chennai – 6.

3.The Chief Educational Officer,

O/o. the Chief Educational Officer,
Trichy – 8.
Trichy District.

4.The District Educational Officer,

O/o. District Educational Officer,
Trichy – 1,
Trichy District.



W.P.(MD)No.22526 of 2017

5.The Correspondent,

Khajamian Higher Secondary School,
Khaja Nagar,
Trichy – 20.

6.The Head Master,

Khajamian Higher Secondary School,
Khaja Nagar,
Trichy – 20.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings அ.தி.மு.எண் 87280 / ஸி1 / இ2 / 2016 dated 22.02.2017 and quash the same as illegal and consequently direct the respondents to accord permission for having completed the M.Phil course for the academic year 2013-2014 within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates
For Respondents 1 to 4 : Mr.T.Amjad Khan
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 22.02.2017 passed by the first respondent rejecting the



W.P.(MD)No.22526 of 2017

petitioner's request for grant of permission to pursue M.Phil., course for the academic year 2013-2014. Since the petitioner has completed M.Phil., course, the first respondent has passed the impugned order stating that ratification is not permissible.

2.Counter affidavit has been filed by the respondents reiterating the contents of the impugned order, by stating that since the petitioner has completed the course without prior approval, the question of granting approval at this stage is not permissible.

3.The issue that arises for consideration in this writ petition is whether prior permission of the authorities is required for undergoing higher education.

4.The issue is no more *res integra* in view of the various decisions rendered by this Court holding that acquiring higher qualification while in service without obtaining permission is only an irregularity. In the instant case, admittedly, prior permission was sought for by the petitioner to do M.Phil., course from the respondents. However, the said request was not considered by the respondents and thereafter the petitioner has also completed the M.Phil., course.



W.P.(MD)No.22526 of 2017

5.Learned Counsel for the petitioner also relied upon a Government Order namely G.O.Ms.No.200 dated 19.04.1996 [Personnel and Administrative Reforms (A) Department] and would submit that once a request is made seeking prior approval for doing a higher education course and the said request has not been replied within 15 days, it amounts to deemed approval. The relevant paragraph of G.O.Ms.No.200 dated 19.04.1996 is extracted hereunder:

“2.It has been suggested to the Government further to relax the process of obtaining prior permission from the Heads of Department / Head of the office for undergoing correspondence course / attending evening colleges. The Government therefore, direct that the application received from the Government servants seeking prior permission for joining correspondence course / evening college / private study shall be disposed off by the Head of Office / Heads of Department within fifteen days from the date of receipt of application. If any clarification or particulars are sought for from the Government Servant, the said period of 15 days shall be reckoned from the date of receipt of such clarification or particulars. Where no order (according such permission) has been issued within the said period of 15 days, it shall be deemed that the Head of the Department / Head of the office has granted permission for joining



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W.P.(MD)No.22526 of 2017

correspondence course / evening college. Head of Departments will be held responsible if any ineligible person happens to avail of deemed permission by default.”

6. Learned Counsel for the petitioner would submit that along with the petitioner, six other persons had also applied for prior approval and those six persons were granted approval and only the petitioner's request was not considered by the respondents.

7. The petitioner has sought for approval only to do higher education course, which is in the interest of the fifth respondent school where he continues to work. The Division Bench of this Court in the decision rendered in W.A.(MD)No.1124 of 2023 dated 24.07.2023, has categorically held that acquiring higher qualification while in service without prior permission is only an irregularity and the same can be acquired.

8. In the instant case, for no fault of the petitioner who had applied for prior approval for joining higher education course [M.Phil.,] he has been penalised by passing the impugned order dated 22.02.2017, though he had applied for prior approval on 18.11.2013. The Government order namely G.O.Ms.No.200 dated 19.04.1996, produced by the learned Counsel for the petitioner also



W.P.(MD)No.22526 of 2017

makes it clear that once a request is made seeking for approval to do higher education course, if the said request is not considered within 15 days, it amounts to deemed approval. The Division Bench judgment of the Madras High Court relied upon by the petitioner referred to supra also supports the case of the petitioner.

9.Accordingly, the impugned order passed by the first respondent is bad in law and it has to be set aside by this Court. Accordingly, the impugned order dated 22.02.2017 is hereby quashed and the writ petition is allowed by directing the respondents to accord permission to the petitioner for having completed the M.Phil., course for the academic year 2013-2014 within a period of four [4] weeks from the date of receipt of a copy of this order.

10.Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.08.2024

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



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W.P.(MD)No.22526 of 2017

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W.P.(MD)No.22526 of 2017

ABDUL QUDDHOSE, J.

MR

W.P.(MD)No.22526 of 2017

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