



W.P.(MD)No.23284 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.23284 of 2017

and

W.M.P.(MD)No.19568 of 2017

The Secretary
Sadakathullah Appa College (Autonomous)
Rahmath Nagar,
Tirunelveli – 627 006
Tirunelveli 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. Regional Joint Director of Collegiate Education
18, Tiruchendu Road, Murugan Kurichy,
Tirunelveli – 627 012.
4. Manonmaniam Sundaranar University,
represented by its Registrar,
Abishekapatti,
Tirunelveli – 627 012.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order issued by the first respondent State Government G.O.(Ms) No.129 Higher Education (E1) dated 20.05.2009 and quash the same in so far as it restricts the status of the petitioner's college as a Minority Educational Institution to a limited period of five years from 2007-2008 to 2011-2012.

For Petitioner : Mr.M.Ragatheesh Kumar
M/S.Isaac Chambers

For R-1 to R-3 : Mr.V.Om.Prakash
Additional Government Pleader

For R-4 : No appearance

ORDER

This Writ Petition has been filed challenging the order issued by the first respondent State Government G.O.(Ms) No.129 Higher Education (E1) dated 20.05.2009 and the limited period of five year with respect to the minority status granted to the petitioner.

2. The issue is no longer res-integra, various Division Bench of this Court have held that once minority status granted cannot be restricted by a period. For better appreciation, the relevant portion is extracted hereunder:



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“Thirumuruga Kirupananda Variyar Tha-vathiru Sundara Swamingal, Medical, Educational and Charitable Trust, Salem vs. State of Tamil Nadu; (2001) 3 MLJ 433: LNIND 2001 MAD 725 was followed. Paragraph-5 of the said judgment reported in Thirumuruga Kiru- pananda Variyar Thavathiru Sundara Swa- mingal, Medical, Educational and Charitable Trust, Salem v. State of Tamil Nadu (supra) runs thus:

"... the Government while considering the Application made by the Appellant, duly took into account the fact that, (i) all the Trustees belong to Ariya Vaisya Telugu □ speaking Chettiar only from the year 1981 till date; (ii) the Trust has not included any new member in the Trust so far; (iii) the Trust has also stated that the Manage- ment is a registered Charitable Trust and the Board of Management belong to Ariya Vaisya Telugu speaking Chettiar; (iv) the additional deed executed by the Trust reflects the main objective of subserving the interests of the said minority community; (v) the Founders-Trustees, namely, (a) Thiru. A.Shanmughasundram (b)Tmt.S.Annapoorani and (c) Thiru.Saravanan who became a major at that time, belong to Telugu speaking Ariya Vaisya Chettiar Community and their mother- tongue is Telugu. By the aforesaid order dated 27.10.1997, the Government after verification of the documents produced, issued orders in the name of the Governor declaring the Medical College run by the Appellant as a linguistic minority institution for the purpose of Article 30(1) of the Constitution of India. In the face of the uncontroverted facts and circum- stances brought on record, we are of the considered opinion that this is a fit



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case where the Appellant-Trust is entitled to its rights declared by the Government as a linguistic minority institution, as per G.O.Ms.No.532, dated 27.10.1997 and the Appellant will be eligible to continue to exercise its constitutional rights as recognised by the Government and the same is not liable to be effaced by the subsequent letter of the Government which is impugned in the Writ Petition out of which the present Writ Appeal arises. In conclusion, we hold that if any entity is once declared as minority entitling to the rights envisaged under Article 30(1) of the Constitution of India, unless there is fundamental change of circumstances of suppression of facts, the Government has no power to take away that cherished Constitutional right which is a fundamental right and that too, by an ordinary letter without being preceded by a fair hearing in conformity with the principles of natural justice.”

The aforesaid judgment has also been followed in the judgment of **Secretary, Jeyaraj Annapackiam College for Women (Autonomous) vs. State of Tamil Nadu represented by its Secretary and others** reported in (2013) 8 MLJ 509 wherein, subsequent Division Bench has also held that the minority status given to the appellant therein will hold good without any restriction period.

3. In the present case, the petitioner had been granted with a religious minority status. However, the same has been restricted only for a period of five years. In view of the aforesaid Division Bench Judgment, I am inclined to hold



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that the minority status granted to the petitioner will hold good without any restriction period. However, if the respondent able to find any change in the Constitution of Educational Agency or the Institution is contrary to the Memorandum of Association and bye-laws of Society, it is always open to the Government to issue notice and take appropriate decision in accordance with law.

4. In view of the above, this Writ Petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

25.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
jbr

To:

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,
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K.KUMARESH BABU, J.

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