



W.P.No. 7295 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2025

Coram:

THE HONOURABLE Mrs.V.BHAVANI SUBBAROYAN

W.P.No. 7295 of 2023 &

W.M.P.No.7358 of 2023

S.Vasudevan

...Petitioner

Vs.

1. The Director of Collegiate Education,
College Road, Chennai – 600 006

2. The Joint Director of Collegiate Education,
Race Course, Coimbatore – 600 018

3. The Secretary,
Bishop Thorp College,
Dharapuram – 638 657

4. The Principal in-Charge,
Bishop Thorp College,
Dharapuram – 638 657

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the respondents to permit the petitioner to continue as an Associate Professor till the end of the academic year, viz., 30.04.2023 and to pay the salary and other attendant benefits.

For Petitioner

: Mr.L.G.Sahadevan

For Respondents

: Mr.U.Baranidharan for R1 & R2
Additional Government Pleader
Mr.P.Ebenezer for R3 and R4



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ORDER

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The present Writ Petition is filed for issuance of Writ of Mandamus directing the respondents to permit the petitioner to continue as an Associate Professor till the end of the academic year, viz., 30.04.2023 and to pay the salary and other attendant benefits.

2. The brief facts of the case, as averred by the petitioner are as follows:-

(i) The petitioner has joined in the 3rd respondent College as Lecturer on 26.06.1989 and my qualification was approved by the Bharathiar University. The petitioner was an Associate Professor and Head, Department of Commerce and also held the post of Chairman Board of Studies UG Commerce, Bharathiar University during 2020 and 2021. Since the petitioner attained superannuation on 01.03.2023 without any unblemished record of service in the middle of the year, the petitioner is entitled to continue the service till the end of academic year to protect the interest of students.

(ii) In view of G.O.Ms.No.281 dated 13.02.1981, which extends the benefit of re-employment to continue the service until the end of the academic year, 2022-2023 i.e., till the end of April, 2023, the respondents 3 and 4 have not



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considered the request of the petitioner, therefore, the petitioner had made a detailed representation dated 27.02.2023 to the respondents, but the same has not been considered, inspite of receiving the same. Further, the respondents have not permitted the petitioner to work from 01.03.2023 in the said college. Hence, the petitioner made another representation dated 01.03.2023 to the 1st respondent by narrating about the act of the respondents 3 and 4 in not permitting the petitioner to work. Hence this petition.

3. The learned counsel for the petitioner submits that the action of the respondent -Institution in denying the petitioner the extension of service is legally unsustainable and also contrary to the decision of this Court in Prof.K.Govindasamy Vs. The Commissioner of Collegiate Education dated 04.10.1999 since G.O.Ms.No.281 Education dated 13.02.1981 is applicable to unaided colleges also, thereby pleaded to allow the petition.

4. Per contra, a detailed counter affidavit has been filed by the 1st respondent, wherein it is stated that the college in which the petitioner was working is an un-aided private college managed and owned by private parties and has nothing to do in the part of the Government of Tamilnadu. Initially when the college has started, the management of the college applied for No Objection Certificate from the Government and permission has been accorded for opening



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the college, the college is a self financing college financed and administered by private management run by the Trust / Society governed by the college committee with the members of the Board / Trust / Society. Further, extending the employment as re-employment period or denying re-employment is all upto the decision of self-financing college management. Further, the Government order is applicable only to the teachers working in the Government colleges / government aided colleges, but not in unaided colleges and the petitioner is not entitled to the relief as prayed for.

5. The learned counsel for the 3rd respondent vehemently opposed the prayer of the petitioner and filed a detailed counter affidavit, wherein it is clearly stated that from the month of September, 2022 till the date of retirement of the petitioner, ie., 28.02.2023, the petitioner has been taking unauthorised leave and not attending to the academic duties, which is against the interest of the students studying in the 3rd respondent's college. Further, one of the essential conditions of the Government Order is that the teacher should have retired in the middle of the academic year, but in the present case, the petitioner himself admits that he retired two months prior to the end of the academic year, i.e., on 28.02.2023 and sought for re-employment till 30.04.2023, as such the prayer sought for in the writ petition is not maintainable.



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6. Besides the above, a rejoinder affidavit has been filed by the petitioner to the counter affidavit filed by the 3rd respondent, wherein it is stated that G.O.Ms.No.281, Education Department dated 13.02.1981 is applicable only to the Government and Government Aided colleges is incorrect in view of the fact that the Hon'ble Division Bench of this Court in W.A.No.1025 of 2005 dated 27.09.2007 reported in (2008) 1 MLJ 312 [Correspondent, secretary and Managing Director, Salem Vs. M.Rajagopalan and Others] following the earlier Hon'ble Division Bench of this Court in W.A.No.1179 of 1993 held that the Government Order is also applicable to unaided colleges, thereby contended that the counter affidavit filed by the 1st respondent does not hold good.

7. Heard the learned counsel on either side and perused the documents placed on record carefully.

8. It is to be noted that the college is a minority, unaided, self financing college established and administered by the Church of South India Trichy – Tanjore Diocese. The petitioner claims re-employment in terms of G.O.Ms.No.281 Education Department dated 13.02.1981. Though the said G.O., was already superseded by the Government of Tamilnadu in G.O.Ms.No.188



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Higher Education department dated 23.09.2022, holding in paragraph no.7 that “the government hereby issue a general order allowing reemployment to principals/teachers including college librarian, physical directors and joint directors working in government / government aided colleges, till the last day of the academic year i.e., 30th April for those who are retiring on attaining the age of superannuation in the middle of the academic year, subject to the following conditions and one of the conditions, viz., Condition No.iv is that disciplinary / criminal / director of vigilance and anti corruption cases shall not have been contemplated or pending against the re-employed officer and in clause v their health condition should be normal. The power of re-employment was delegated to the Director of Collegiate Education and for sanctioning re-employment, to send the proposals for re-employment to the government as per the procedures in existence”. The same clearly reveals that the said Government Order is applicable only to government and aided college teachers and the same is also made clear by the 1st respondent.

9. That apart, it is the contention of the 3rd respondent that petitioner has been taking unauthorised leave and is not attending to his academic duties, therefore, the petitioner is not entitled for the relief and to substantiate the same, a copy of attendance register has been enclosed, which would show that the



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petitioner was continuously absent from September 2022 to February, 2023.

Since the petitioner was due to retire, disciplinary proceedings have not been initiated. In reply, it is the contention of the petitioner that the said contention of the respondent is false, whereas salary for the said months have been credited by the college to the petitioner.

10. It is relevant to extract Section 2(vii) of Tamil Nadu Private Colleges Regulation Act, 1976, which clearly stipulates the meaning and definition of minority college.

“(7) "minority college" means a private college of its choice established and administered, or administered, by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 of the Constitution ;”

Hence it is construed that the college comes under the above said definition.

11. Considering the above said facts and circumstances of the case and taking note of the fact that neither Government of Tamilnadu nor the office of the Director Collegiate Education releases any grants-in-aid to the college and the college is self financing colleges, which are autonomous in nature in financial status and administration and coupled with the fact that the staffs working in self financing colleges are not under any bindings of the Government of Tamilnadu, thereby will not be covered under G.O.No.281 Education Department dated



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13.02.1981, this Court is of the view that the petition deserves to be dismissed.

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In the result, the present Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

14.02.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

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2. The Joint Director of Collegiate Education,
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V.BHAVANI SUBBAROYAN, J.

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