



W.P.Nos.7819 of 2024 & 9005 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 19.03.2025

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.7819 of 2024 & 9005 of 2025
& W.M.P.Nos.8763 of 2024 & 10113 of 2025

St. John's College,
Rep by its Secretary,
Mr.G. Jeyachandran,
S/o.Mr.George,
St. John's College Campus,
Palayamkottai, Tirunelveli.

... Petitioner
in both petitions

VS.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Higher Education Department,
Fort St. George,
Chennai- 600 009.

2. The Director of Collegiate Education,
I.A.S.E. Campus,
577, Anna Salai, Saidapet,
Chennai - 606 015.

3. The Regional Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

... Respondents
in both petitions



W.P.Nos.7819 of 2024 & 9005 of 2025

Prayer in W.P.No.7819 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of declaration, to declare that G.O.Ms.No.128 Finance (Ze-Bag) Department, dated 21.02.2006 is not applicable to the petitioner college and consequently direct the 2nd and 3rd respondents to approve the appointment of 5 Office Assistants with monetary benefits and all other service benefits from their date of appointment.

Prayer in W.P.No.9005 of 2025: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent made in Na.Ka.No.6446/F4/2022 dated 20.03.2024 and quash the same and consequently direct the respondents 1 to 3 to approve the appointment of 18 Group D non-teaching staffs and pay the arrears of Salary w.e.f., 27.10.2023.

For Petitioner : Ms.Selvi George,
in both cases for E.Martin Jaya Kumar.

For Respondents : Mr.C.Jayaprakash,
in both cases Government Advocate, for R1 to R3

COMMON ORDER

The writ petitioner had filed both the writ petitions and since the reliefs sought overlap and in W.P.No.7819 of 2024, the writ petitioner in their capacity as a minority Institutions seeks a relief that G.O.Ms.No.128 Finance (Ze-



W.P.Nos.7819 of 2024 & 9005 of 2025

Bag), Department, dated 21.02.2006 would not be applicable to minority

WEB INSTITUTIONS and in W.P.No.9005 of 2025 questions an order of the 2nd respondent by which a proposal put up by the petitioner had been rejected on the basis of the G.O.Ms.No.128, dated 21.02.2006 and since the issues are the same, a common order is passed.

2. The Government had passed G.O.Ms.No.128 Finance (Ze-Bag) Department dated 21.02.2006 with respect to determining the norms for employment of Office Assistants and revising the norms. A ratio had been fixed for appointment of Office Assistant vis-a-vis., Officers. The over all strength of Office Assistants had also been given. The petitioner herein had taken a decision to appoint Office Assistants, Sweepers, Watchmen, Gardeners, Watermen, Water women and also Sanitary Workers in their Institution. The purpose of the Government Order relied on by the respondents is that such posts should be appointed only through outsourcing. This would mean that the petitioner would have to login to the website of the District Collectorate and draw the work force from a registered contractor. They would have no authority to appoint such individuals by themselves. However, the petitioner being a minority Institution



W.P.Nos.7819 of 2024 & 9005 of 2025

sought that G.O.Ms.No.128, dated 21.02.2006 would not be applicable to them

and that they have a right to appoint for the aforementioned posts individuals of their choice. The issue is no longer *res integra*.

3. A Division Bench of this Court in W.A.Nos.2096 and 2124 of 2019 *vide* order dated 19.07.2019, examined the very same issue. The Division Bench had held as follows:

“5. The Government issued an order in G.O.Ms.No.219, Higher Education, dated 24.10.2013 directing the Management for outsourcing the vacancies in Group D categories like Sweeper, Scavenger, Cleaner and Gardner. The proposals submitted by the Management was rejected only on the basis of the order in G.O.Ms.No.219 dated 24.10.2013.

6. Rule 11 (1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, contain a legislative mandate to fix the staff strength every year. Rule 11 (3) provides that in case of regular vacancy, it is open to the Management to fill up the post on regular basis, the only requirement being that the candidate should be qualified.

7. There is no dispute that the Management was entitled to make appointments taking into account four



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W.P.Nos.7819 of 2024 & 9005 of 2025

vacancies in the post of Nonteaching staff. The denial of approval was only on account of the order in G.O.Ms.No.219 dated 24.10.2013. There is no question of issuing a Government Order for outsourcing, even in respect of the sanctioned post. When it is made out that the post is sanctioned, the Management is having every right to fill up the post. The Government has no right to say that the post should be filled up only by outsourcing.

8. The posts were sanctioned only in accordance with the Tamil Nadu Private Schools Regulation Act, 1976 and the Rules made thereunder. The staff strength fixed as per the Rules cannot be taken away by issuing a Government Order directing or permitting outsourcing. We are therefore of the view that the learned Single Judge was justified in allowing the Writ Petition.

9. The intra court appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

4. The reasoning would apply to the facts and circumstances of this case. As a minority Institution, the petitioner is protected under Article 30 of the Constitution of India, insofar as its administration is concerned. There cannot be an erosion of such protection granted by the Constitution, particularly by way of a Government Order passed by the respondents.



W.P.Nos.7819 of 2024 & 9005 of 2025

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5. Both these Writ Petitions are allowed. A direction is issued to the respondents to grant approval for the appointment of the staff who had been mentioned in the affidavit filed in support of the writ petition in W.P.No.9005 of 2025. The impugned order is set aside and necessary orders to be passed granting approval within a period of two months, from the date of receipt of copy of this order.

6. These writ petitions stands allowed. The staff who had been so appointed are entitled for service and monetary benefits from the date of their initial appointment. Consequently, connected miscellaneous petitions are closed.
No costs.

19.03.2025

Neutral Citation : Yes/No.
bsm
To,
1. The Principal Secretary,
The Government of Tamil Nadu,
Higher Education Department,
Fort St. George,
Chennai- 600 009.

Page 6 of 8



W.P.Nos.7819 of 2024 & 9005 of 2025

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3. The Regional Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

4. The Government Pleader, High Court, Madras.



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W.P.Nos.7819 of 2024 & 9005 of 2025

C.V.KARTHIKEYAN, J.

bsm

W.P.Nos.7819 of 2024 & 9005 of 2025

19.03.2025