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W.P.No.22540 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.22540 of 2025

and

W.M.P.Nos.25364 and 25367 of 2025

The Principal & Secretary,
Women's Christian College,
College Road, Chennai – 600 006.

... 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,
Saidapet,
Chennai – 600 015.

3.The Joint Director of Collegiate Education,
Chennai Region,
Chennai – 600 015.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent Director in Mu.Mu.No.45719/G1/2023 dated 13.08.2024 and the consequential proceedings issued by the 3rd respondent Joint Director in O.Mu.No.5921/U1/2023 dated 28.08.2024 in so far as it relates to Office Assistant, Watchman, Gardener, Sweeper, Scavenger, Marker and Mechanic, quash the same and further direct the 2nd and 3rd respondents to approve forthwith the appointment of 8 non-teaching staff (Name List annexed) in the petitioner college and disburse the grant-in-aid towards their salary and allowances with effect from the respective dates of their appointments without reference to G.O.Ms.No.128, Finance (Ze-Bag) Department dated 21.02.2006, G.O.Ms.No.49 (Personal and Administrative Reforms Department) dated 14.05.2002 and GO(D)No.135, Higher Education (D1) Department dated 12.06.2009.

For Petitioner : M/s.H.Mary Sowmi Rexi

For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

The learned counsel for the petitioner would submit that the petitioner institute is a minority institution, established in the year 1915. It is the



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further submission of the petitioner that the college attained the status of an autonomous institution in the year 1982.

2. The learned counsel for the petitioner would further submit that, by virtue of the proceedings dated 23.09.1987 and 19.12.1997, the Government has sanctioned 47 posts of non-teaching staff under the aided scheme. Out of the 47 posts, 8 posts have fallen vacant in recent years. Hence, the college has made appointments and sent a separate proposal to the 3rd respondent seeking for an approval for the appointment of 8 non-teaching staffs for the purpose of disbursement of grant-in-aid towards their salary.

3. However, the respondents have refused to approve the said appointments vide letter dated 13.08.2024. In the order of refusal, the respondent has stated that there is an excess posts of Office Assistant, and hence directed the college to abolish one such post. As far as the other posts, namely Gardener, Sweeper, Scavenger, Marker and Mechanic are concerned, the respondents have directed the petitioner to outsource those posts in continuation of the policy under G.O.Ms.No.49 Personnel and Administrative Reforms(F) Department, dated 14.05.2002.



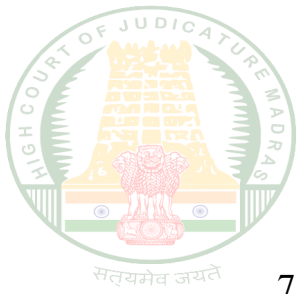
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4. In support of his contentions, the learned counsel for the petitioner relied upon the judgment of the Division Bench of this Court in ***State of Tamil Nadu and others Vs. The Principal and Secretary, St.Christopher's College of Education, Vepery, Chennai*** in W.A.No.574 of 2025 dated 03.03.2025.

5. Per contra, the learned Government Advocate appearing for the respondents would submit that by virtue of G.O.Ms.No.49 Personal and Administrative Reforms(F) Department dated 14.05.2002 and G.O.Ms.No.128 Finance (ZE-AG) Department dated 21.02.2006. It is contended that the Government had taken a policy decision to fill Group-D posts only through outsourcing. Hence, the petitioner cannot challenge the same, and there is no ground to interfere with the impugned order.

6. Heard the learned counsel on either side and perused the materials available on records.



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7. The short point that arises for consideration is whether the sanctioned posts allotted to a minority institution can be abolished by referring about the excess posts and directing them to outsource Group-D posts by way of contractual employment.

8. In this connection, it is relevant to refer to the judgment of the Division Bench of this Court in W.A.No.574 of 2025 dated 03.03.2025 in ***State of Tamil Nadu and others Vs. The Principal and Secretary, St.Christopher's College of Education, Vepery, Chennai***, wherein this Court, by referring to the judgment of this Court in ***State of Tamil Nadu, Vs. The Secretary, Nirmala College for Women (Autonomous), Red Fields, Coimbatore, Coimbatore District*** in W.A.Nos.2096 and 2124 of 2019, held that the Government has no right to regulate the appointments to sanctioned posts in a private aided minority institutions.

9. For ready reference, this Court deems it appropriate to extract the relevant portion of the judgment of the Division Bench of this Court in ***State of Tamil Nadu and others Vs. The Principal and Secretary, St.Christopher's College of Education, Vepery, Chennai*** is extracted



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hereunder:-

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*“5.As we had already adverted to the judgment of a Division Bench of this Court in **the State of Tamil Nadu Vs. The Secretary, Nirmala College for Women** dealing with the right of the Government to regulate appointments to sanctioned posts in private aided colleges wherein, it was 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. Rules 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.”

This order has become final. Therefore, we do not find any merit in the appeal. The learned Government Pleader would however, attempt to draw out attention to a judgment of another single Judge of this Court made in W.P.(MD).No.2220 & 2221 of 2016 dated 02.06.2023 wherein, the learned Single Judge has upheld the right of the Government to pass a Government order regulating appointments to the sanctioned posts in the Government aided colleges.

6. We are unable to sustain the view taken by the learned Single Judge in M.V.Ekanathan Vs. The Government of Tamil Nadu made in W.P(MD).Nos.2220 & 2221 of 2016 as the same runs counter to the Division Bench judgment of this Court, which has been upheld by the Hon'ble Supreme Court.”



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10. In view of the above authoritative pronouncement in ***State of Tamil Nadu and others Vs. The Secretary, Nirmala College for Women (Autonomous), Red Fields, Coimbatore, Coimbatore District***, which was followed in the case of ***State of Tamil Nadu and others Vs. The Principal and Secretary, St.Christopher's College of Education, Vepery, Chennai***, the issue is no longer *res integra*. It is also pertinent to mention here that W.A.Nos.2096 and 2124 of 2019 vide order dated 19.07.2019 was ultimately upheld by the Hon'ble Supreme Court.

11. In such view of the matter, the impugned rejection order is in contravention of the above precedents and is, therefore, liable to be quashed. Accordingly, the impugned order dated 13.08.2024 is quashed. The respondents are directed to grant approval for the appointments made by the petitioner within a period of four weeks from the date of receipt of a copy of this order.



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12. In the result, this Writ Petition is allowed. No costs.

Consequently, connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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Chennai – 600 009.
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C.KUMARAPPAN, J.

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