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W.P.No.17622 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.17622 of 2025
and W.M.P.Nos.19928 and 19929 of 2025

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

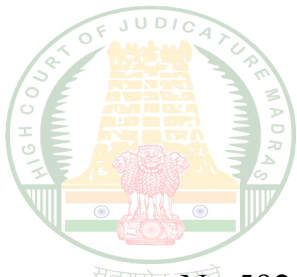
... Petitioner

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 Regional Joint Director of
Collegiate Education, Chennai Region
Chennai – 600 015

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent Director in Na. Ka. No. 36938/G1/2023 dated 25.04.2024 and the consequential proceedings issued by the 3rd respondent Joint Director in O. Mu.



W.P.No.17622 of 2025

No.5921/U1/2023 dated 28.08.2024 in so far as serial Nos.1 to 4 in the 1st Tabulation, Quash the same, and further direct the 2nd and 3rd respondents to approve forthwith the appointment of 4 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 GO Ms.No. 128, Finance (Ze-Bag) Department dated 21.02.2006.

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

For Respondents : Mr.C.Jaya Prakash
Government Advocate (for R1 to R3)

ORDER

The instant writ petition has been filed with a prayer for issuing a Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent/Director of Collegiate Education in Na.Ka.No.36938/G1/2023, dated 25.04.2024 and the consequential proceedings issued by the 3rd respondent/Regional Joint Director of Collegiate Education, in O.Mu.No.5921/U1/2023, dated 28.08.2024 in so far as Serial Nos.1 to 4 in the 1st Tabulation, quash the same, and further direct the 2nd and 3rd respondents to approve forthwith the appointment of 4 non-teaching staff (Name List annexed) in the petitioner college and disburse the grant-in-aid towards their salary and allowances



W.P.No.17622 of 2025

WEB COPY

with effect from the respective dates of their appointments without reference to GO Ms.No. 128, Finance (Ze-Bag) Department dated 21.02.2006.

2. The learned counsel for the petitioner would submit that they are the partially Aided Private College affiliated with the University of Madras and it was established in the year 1915. The learned counsel for the petitioner further submits that the Petitioner-Institution is an Autonomous and Minority Institution since 1982. The learned counsel for the petitioner would further submit that they have got 47 sanctioned post. Whiles, they wanted to fill 4 posts which became vacant. Hence, they have sent separate individual proposals on 09.05.2022, 01.05.2023, 01.07.2023 and 01.08.2023. However, the 3rd respondent has returned the proposal directing the petitioner instead of filling the regular vacancy, was directed to go for an out sourcing vide impugned order dated 28.08.2024, which is impugned in the present writ petition.

3. It is the submission of the petitioner that the issue involved in this case is no longer *res integra* in view of the Division Bench of this Court in W.A.No.574 of 2025, dated 03.03.2025. The learned counsel for the



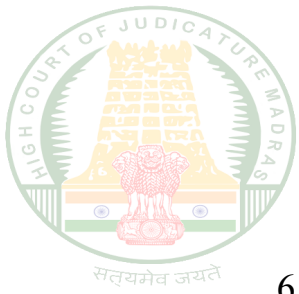
W.P.No.17622 of 2025

WEB COPY

petitioner would further submit that the Division Bench by referring the earlier Division Bench judgment in the case of *the Secretary, Nirmala College for Women vs. State of Tamil Nadu rep. by its Secretary, Higher Education Department and others*, has passed similar order. The learned counsel for the petitioner would submit that the judgment of *Nirmala College for Women* has been confirmed by the Hon'ble Supreme Court in S.L.P.(Civil).Nos.6573 to 6577 of 2019. Hence, prayed to allow the present writ petition.

4. Per contra, the learned Government Advocate appearing for the respondents would submit that by virtue of G.O.(1D).No.135, Higher Education (D1) Department, dated 12.06.2009, the Petitioner-Institution cannot fill up the Curator post and would further submit that the Government had taken a policy decision that the non-teaching staff has to be filled only through an out sourcing. Therefore, he would contend that there is no ground to interfere with the impugned order.

5. I have given my anxious consideration to the submissions made on either side.



W.P.No.17622 of 2025

WEB COPY

6. Now, the short point to be considered whether the sanctioned post allotted to the Minority Institution, can be denied by diverting them to appoint such person through an outsourcing or by way of a contractual employment. In this connection, as rightly contended by the learned counsel for the petitioner in ***State of Tamil Nadu rep. by its Secretary, Department fo Higher Education vs. Principal and Secretary, St.Christopher's College of Education*** (W.A.No.574 of 2025), where a similar impugned order was quashed and permitting the Minority Institution to fill up the post by regular employee. The Division Bench observed as follows:-

"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.



W.P.No.17622 of 2025

WEB COPY

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."

This order has become final. Therefore, we do not find any merit in the appeal. The learned Government Pleader would however, attempt to draw our 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."

7. It is pertinent to mention here that the direction issued by the Government to the Minority Institution to fill up the post through contractual



W.P.No.17622 of 2025

WEB COPY

employment was quashed. In such view of the matter, it is very much apparent that the present impugned order is in contravention to the Division Bench judgment of this Court.

8. In view of the same, this Court finds merits in the petitioner's contention. Hence, the impugned orders dated 25.04.2024 and 28.08.2024 are set aside and the Writ Petition is allowed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

11.06.2025
(1/2)

Index : Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation : Yes/No
dm

To

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Department of Higher Education
Fort St. George, Chennai – 600 009
- 2.The Director of Collegiate Education
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WEB COPY



W.P.No.17622 of 2025

C.KUMARAPPAN, J.

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