

W.P.No.24173 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.08.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.24173 of 2024

and

WMP.No.26432 of 2024

S.Sunder

... Petitioner

Vs.

1.The Director of Collegiate Education,
No.577, Anna Salai,
Saidapet, Chennai - 600 015.

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627008

3.The Correspondent/Secretary
Nazareth Margoschis College,
Pillaiyanmanai, Nazareth - 628 617,
Thoothukudi District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in



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Na.Ka.No.28262/F4/2023 dated 20.03.2024 and quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of Watchman in 3rd Respondent College from the date of appointment on 07.06.2021 with payment of salary and other service benefits.

For Petitioner : M/s.S.Nedunchezhiyan
for S.Bharathi Rajan

For Respondent : M/s.C.Jayaprakash, Govt. Advocate
(Higher Education) for R.1 & R.2

: R.3- Not ready in notice

ORDER

The Writ Petition has been filed for a ceriorarified mandamus to call for and quash the order of the 1st respondent dated 20.03.2024 and consequently direct the respondents to approve the appointment of the petitioner to the post of watchman in the 3rd respondent college.

2. The brief facts are as follows:-

3. The 3rd respondent college is a minority educational institution drawing financial aid from the Government. The petitioner was appointed as a watchman in the 3rd respondent college by an



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appointment order dated 07.06.2021. On 26.11.2021, the proposal to

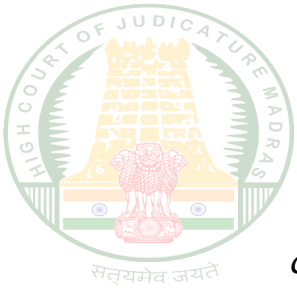
approve his appointment had been sent by the 3rd respondent college.

On 20.03.2024, the 1st respondent had passed the impugned order rejecting the proposal to approve the appointment of the petitioner on the ground that a prior permission from the Government had not been obtained. The petitioner has challenged the same stating that there was no necessity for a prior approval in a case of a non teaching staff.

4. Heard the learned counsel on either side.

5. This issue has already been considered by a learned Judge of this Court in WP.No.17511 and 17518 of 2019 and by order dated 16.08.2018, the learned Judge had observed as follows:-

“10. This Court is unable to appreciate as to how despite the settled legal principle in respect of the Minority institutions, the Educational authorities can insist upon certain requirements as provided for in the Tamil Nadu Private Colleges (Regulation) Act 1976 and Rules. When the Minority Institution enjoys a

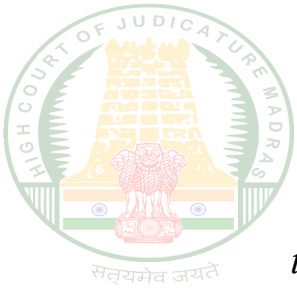


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complete protection under Article 30 of the Constitution of India, such protection cannot be trifled with by the Educational authorities by insisting on application of certain requirements provided under the Act and Rules, which provisions cannot be applied to the Minority Institutions. In fact, in respect of appointment of non-teaching staff, requirement of advertisement was not envisaged in the Rules and such requirement cannot be supplemented by any executive action of the respondents. Unless the Rules are supplanted providing for such requirement, the Educational authorities cannot insist on the same, which is not found specifically in the Rules. Even otherwise, such requirement, even if introduced in the Rules, cannot be pressed into service in respect of minority institutions.

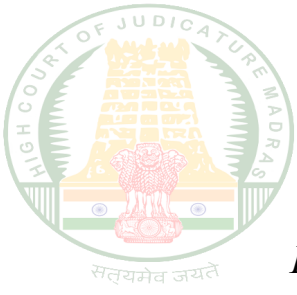
11. As rightly contended by the learned Senior counsel for the petitioner Rule 11(4)(ii) was in relation



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to the appointment of teaching staff by the College Committee. But as far as the Minority Institutions are concerned, the College Committee is not required to be constituted under Section 11 of the Act unlike in respect of the institutions not being Minority institutions. In the absence of such regulation, this Court is unable to countenance the action of the respondents 2 and 3 in refusing to grant approval of the appointments of the seven non-teaching staff in the petitioner institution. The refusal to grant approval for the subject appointments, would therefore, cannot stand the test of judicial scrutiny and the same is liable to be interfered with. The insistence on requirement of advertisement for appointment of non-teaching staff in the Minority Institution is without the authority of law and the same cannot be enforced as against the petitioner institution. The petitioner institution comes under the protective cover, being the minority institution, under Article 30 of the Constitution of

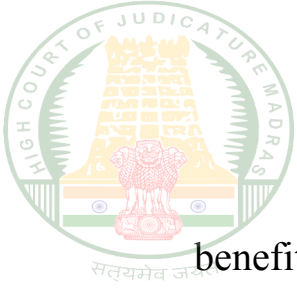


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India, such protective cover cannot be sought to be uncovered by the insistence on a statutory requirement, which first of all cannot be made applicable for the non-teaching staff and secondly such requirement cannot be enforced in the teeth of the Constitutional protection guaranteed to the minority institutions. In fact, the claim of the petitioner is fully covered by the decisions of the Hon'ble Supreme Court of India, cited above."

6. This order has been upheld by the Division Bench of this Court in WA.No.1273 of 2025. Therefore, considering the fact that the 3rd respondent college is a minority college the insistence of a prior approval of the Government is without any basis and accordingly, the Writ Petition is allowed and the impugned order passed by the 1st respondent dated 20.03.2024 is set aside. A direction is issued to the respondents to approve the appointment of the petitioner to the post of Watchman in the 3rd Respondent College from the date of appointment on 07.06.2021 with payment of salary and other service



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benefits, within a period of one month from the date of receipt of a

copy of this order. No costs. Consequently, the connected

Miscellaneous Petition is closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Director of Collegiate Education,
No.577, Anna Salai,
Saidapet, Chennai - 600 015.

2.The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627008



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P.T. ASHA. J.,

(shr)

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