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W.A.No.890 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.890 of 2025

and

C.M.P.No.7538 of 2025

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,
College Road, Chennai - 600 006.

3.The Regional Joint Director Collegiate Education,
Chennai Region,
Chennai - 600 015.

... Appellants

Vs.

The Principal & Secretary,
St. Christopher's College of Education,
Vepery, Chennai - 600 007.

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 20.11.2023 made in W.P.No.19085 of 2020.



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W.A.No.890 of 2022

For Appellants : Mr.D.Ravichander,
Special Government Pleader

For Respondent : Ms.H.Mary Sowmi Rexi

J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

This unnecessary appeal by the Government challenges the order of the learned single Judge which directed approval of the appointment of a Sanitary worker in the respondent College which is admittedly a minority Institution.

2. It is not in dispute that the post of Sanitary workers, which is a Group-D sanctioned post and in terms of Rule 11(1) of the Tamilnadu Private Colleges Regulation Rules, 1976, there is a legislative mandate under the rules to the Government to grant aid for appointments made by the Institutions. In an attempt to prevent private aided colleges from making regular appointments to Group-D posts, the Government issued G.O.Ms.No.219 Higher Education (D1) Department on 24.10.2013 providing for filling up the Group-D posts in Government aided Arts and Science Colleges through contractual workers. The said Government order was subject matter of challenge before this Court in W.P.Nos.6679 & 6680 of 2016.



W.A.No.890 of 2022

WEB COPY

3. This Court, by order dated 24.11.2017, allowed the said writ petition and quashed the said Government order. The order of the single Judge dated 24.11.2017 made in ***the Secretary, Nirmala College for Women Vs. State of Tamil Nadu rep. by its Secretary, Higher Education Department and others*** was challenged by the Government in W.A.Nos. 2096 & 2124 of 2019 and a Division Bench of this Court by its judgment dated 19.07.2019 upheld the order of the learned single Judge, quashing the said Government order. A similar judgment of a Division Bench of this Court dealing with G.O.Ms.No.219 made in W.A.Nos.1704 to 1707 of 2018 dated 14.11.2018 was subject matter of challenge in SLP(Civil)Nos. 6573 to 6577 of 2019. The said SLPs were dismissed by the Hon'ble Supreme Court on 28.01.2022. Thus, quashment of G.O.Ms.No.219 by this Court has become final.

4. Since the Directorate of Education did not approve appointment, the College sought for a mandamus directing approval of appointment of one T. Govindammal as a Sanitary worker with effect from 24.06.2019. The learned single Judge relying upon the Division Bench judgment in ***the State of Tamil Nadu Vs. the Secretary, Nirmala College for Women***, allowed the writ petitions, directing grant of approval. It is this order, which is subject matter of



challenge in this appeal.

WEB COPY

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. 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



W.A.No.890 of 2025

appointments to the sanctioned posts in the Government aided colleges.

WEB COPY

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. No doubt, the Government has got the power to regulate appointments in Government aided Colleges but, that cannot be done by way of administrative orders which run contrary to the rules that are already in force. We therefore, see no merit in the appeal. This Writ Appeal fails and it is accordingly, **dismissed**. Consequently, connected miscellaneous petition is closed. The Government is granted four weeks time to comply with the order of the learned single Judge.

(R.S.M.,J.) (G.A.M.,J.)
26.03.2025

dsa

Index : No

Neutral Citation : No

Speaking order



WEB COPY



W.A.No.890 of 2022



W.A.No.890 of 2022

To

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