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W.P.(MD) No.15664 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.15664 of 2022

and

W.M.P.(MD) No.11281 of 2022

A.Kathali Narasinga Perumal

... Petitioner

-VS-

- 1.State of Tamil Nadu
rep.by its Principal Secretary
to the Government
Higher Education Department
Fort St.George, Chennai-9
- 2.The Registrar
Madurai Kamaraj University
Palkalai Nagar
Madurai-625 021
- 3.The Director of Collegiate Education
DPI Campus, Chennai-6
- 4.The Regional Joint Director of
Collegiate Education
O/o.The Regional Joint Director of
Collegiate Educational
Madurai



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5.The Secretary
Arulmigu Palaniandavar College of
Arts & Culture
Palani-624 601
Dindigul District

6.P.T.Rajkumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration to declare the selection and appointment of the respondent No.6 in the post of Assistant Professor (Commerce) at the 5th respondent College as illegal and consequently for a direction directing the respondent No.5 to the conduct fresh recruitment to the post of Assistant Professor (Commerce) by inviting applications from all the eligible candidates in accordance with the Judgment of this Court in W.P.(MD) Nos.815 and 1385 of 2016 dated 10.12.2021.

For Petitioner : Mr.G.Karthik
for M/s.T.Lajapathi Roy & Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader for R1, R3 & R4
Mr.T.Sakthikumaran
Standing Counsel for R2
Mr.R.Murali for R5
Mr.Anwar Sameem
for Mr.T.Antony Arulraj for R6



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ORDER

This writ petition has been filed for a declaration seeking to declare the selection and appointment of the sixth respondent in the post of Assistant Professor (Commerce) in the fifth respondent – College as illegal.

2. The petitioner claims that the sixth respondent is not eligible to be appointed to the post of Assistant Professor (Commerce) as he is a non-teaching staff. The sixth respondent was appointed in the fifth respondent – College as Assistant Professor (Commerce) on 05.04.2022 and his appointment was approved on 12.09.2022. The petitioner claims that, by an order dated 10.12.2021, passed in W.P.(MD) Nos.815 & 1385 of 2016, this Court had closed the said writ petitions, based on the representation made by the official respondents that they will not proceed with the advertisement, which was challenged by the petitioner, pertaining to the very same post, namely, Assistant Professor (Commerce) to which the sixth respondent has been appointed. Therefore, the petitioner claims that, without following the recruitment process, the sixth respondent has been appointed by the fifth respondent – College to the very same post, namely, Assistant Professor (Commerce) and approval has also been granted arbitrarily and illegally.



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3. Counter affidavits have been filed by the respective respondents before this Court denying the contentions of the petitioner. They would categorically contend that the post, which was the subject matter of consideration in the earlier writ petitions filed by the petitioner in W.P.(MD) Nos.815 & 1385 of 2016, is different from the post to which the sixth respondent has been appointed. According to them, the sixth respondent has been appointed only in accordance with G.O.Ms.No.2406, Education Department, dated 31.10.1981, as he has been promoted to the post of Assistant Professor (Commerce) from the post of non-teaching staff. They would also categorically contend that the post filled up by the fifth respondent – College is not a backlog vacancy. The sixth respondent has also questioned the maintainability of this writ petition, on the ground that the petitioner has not challenged his appointment, but, has only filed this writ petition seeking for a declaration to declare his appointment in the fifth respondent – College as Assistant Professor (Commerce) as arbitrary and illegal.



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4. The following are the undisputed facts:

- (a) The appointment of the sixth respondent in the fifth respondent – College has not been challenged by the petitioner. The sixth respondent was appointed in the fifth respondent – College as Assistant Professor (Commerce) pursuant to the approval granted by the University on 08.08.2022 and the fourth respondent on 12.09.2022.
- (b) The petitioner has filed this writ petition only for a declaration to declare that the appointment of the sixth respondent in the fifth respondent – College as Assistant Professor (Commerce) as arbitrary and illegal without challenging the sixth respondent's appointment, namely, by challenging the appointment order issued to the sixth respondent.
- (c) The earlier writ petition, namely, W.P.(MD) No.815 of 2016, filed by the petitioner, pertains to the advertisement calling for applications for appointment



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to the post of Assistant Professor (Commerce) and the said advertisement was issued in respect of the backlog vacancies.

- (d) The sixth respondent, as seen from the counters filed by the respective respondents, which have not been rebutted by the petitioner, was appointed only in accordance with G.O.Ms.No.2406, Education Department, dated 31.10.1981, as the sixth respondent was promoted to the post of Assistant Professor (Commerce) from the post of non-teaching staff, as he was found to be eligible to hold the said post.
- (e) In the affidavit filed in support of this writ petition, the petitioner has not given any reason as to why he has not challenged the appointment order issued to the sixth respondent for the post of Assistant Professor (Commerce), though during the course of the learned counsel for the petitioner's submissions a statement was made that the petitioner did not have access to



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the appointment order issued in favour of the sixth respondent and that is the reason why to the petitioner did not choose to challenge the appointment order. However, the said statement must be supported in the form of an affidavit, if the said statement is in fact true. Since the same is not supported by an affidavit, the question of accepting the statement made by the learned counsel for the petitioner does not arise and the reason given through his submission has to be rejected by this Court.

- (f) The petitioner will have to establish his case for getting the relief sought for in this writ petition and when the petitioner has not challenged the appointment order issued in favour of the sixth respondent and that too when this Court finds from the counters filed by the respective respondents, that there is no basis for the petitioner to file this writ petition that too when the petitioner has not challenged the appointment order issued in favour of the sixth respondent, this Court is



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of the considered view that there is no merit in this writ petition.

5. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Principal Secretary
to the Government,
Higher Education Department,
State of Tamil Nadu,
Fort St.George, Chennai-9.
- 2.The Director of Collegiate Education,
DPI Campus, Chennai-6.
- 3.The Regional Joint Director of
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O/o.The Regional Joint Director of
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ABDUL QUDDHOSE, J.

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