

W.P.(MD) No.20157 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 31.07.2025

Pronounced On : 29.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.20157 of 2017

and

W.M.P.(MD)No.16432 of 2017

Mr. S. Thirumalai Kumarravel,
S/o. P. Seetharaman,
No - 15 B/1, South Muthalamman Kovil Street,
Palayamkottai,
Tirunelveli District.

... Petitioner

Vs.

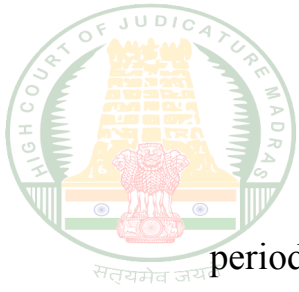
1.The Commissioner,
Directorate of Technical Education,
Sardar Vallabaipatel Road,
Guindy, Chennai – 25.

2.The Correspondent,
St. Xavier's Polytechnic College,
Seydunganaliur,
Thoothukudi District.

... Respondents

PRAYER in W.P.:

To issue a Writ of Certiorarified Mandamus or any other order of direction in the nature of writ to call for the records pertaining the impugned order in SXP/OFF/6491/2017 dated 02.08.2017 on the file of the Respondent No.2 and quash the same as illegal and consequently directing the Respondent No.2 to reinstate the petitioner in the post of Lecturer (senior scale) in the Respondent No.2 college within the time



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period stipulated by this Hon'ble Court and pass any such further order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case and thus render Justice.

PRAYER in WMP:

To pass an order of interim stay the operation of the impugned order in SXP/OFF/6491/2017 dated 02.08.2017 on the file of the Respondent No.2 pending disposal of the above writ petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner : Mr. H.Arumugam, Advocate

For Respondents : Mr.J.Ashok,
Additional Government Pleader for R1

: Mr.K.Vinoharan, Advocate,
for Mr.Prabhu Rajadurai, Advocate for R2

J U D G M E N T

Heard.

2. The writ petitioner has filed the present petition challenging the order dated 02.08.2017 passed by the 2nd Respondent. By the said order, the Petitioner was informed that, for appointment to the post of Lecturer (Engineering) in a self-financing Polytechnic, possession of a B.E. degree with First Class is mandatory. Therefore, the Petitioner informed



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that since the Petitioner had only obtained a B.E. degree with Second Class, his services were consequently terminated with effect from 02.08.2017. It is an admitted fact that the 2nd Respondent is a self-financing Polytechnic College.

3. The Petitioner contended that he had rendered 24 years of service in the same institution and had also served as Principal in-charge for a period of four months. Hence, according to him, the termination was not valid. When the writ petition was listed for admission on 27.11.2017, notice for the 1st Respondent was taken by the AGP, while notice to the 2nd Respondent was confined only to the issue of maintainability. The 2nd Respondent thereafter filed a counter affidavit dated 12.12.2017. In the said affidavit, apart from justifying the termination, the 2nd Respondent asserted that the institution did not receive any Government funds and that the Petitioner's salary was paid from the Trust's resources. It was further contended that the Petitioner had failed to implead the All India Council for Technical Education (AICTE), and that the management was acting in accordance with the Tamil Nadu Technical Education Subordinate Service Manual as well as the Regulations framed by AICTE.



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4. The learned counsel for the 2nd Respondent placed reliance upon two decisions of the Hon'ble Supreme Court, which are set out below:—

- a. ***Janet Jeyapaul Vs. SRM University (2015 (16) SCC 530)***
- b. ***St.Mary's Education Society Vs. Rajendra Prasad Bhargava (2023 (4) SCC 498)***

5. In the first decision, the Hon'ble Supreme Court held that a deemed university is amenable to the writ jurisdiction of the Court, and in paragraphs 30 and 31 observed as follows:—

“30. This we say for the reasons that firstly, respondent No. 1 is engaged in imparting education in higher studies to students at large. Secondly, it is discharging "public function" by way of imparting education. Thirdly, it is notified as a "Deemed University" by the Central Government under Section 3 of the UGC Act. Fourthly, being a “Deemed University”, all the provisions of the UGC Act are made applicable to respondent No. 1, which inter alia provides for effective discharge of the public function - namely education for the benefit of public. Fifthly, once respondent No. 1 is declared as “Deemed University” whose all functions and activities are governed by the UGC Act, alike other universities then it is an "authority" within the meaning of Article 12 of the Constitution. Lastly, once it is held to be an "authority" as provided in Article 12 then as a necessary



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consequence, it becomes amenable to writ jurisdiction of High Court under Article 226 of the Constitution.

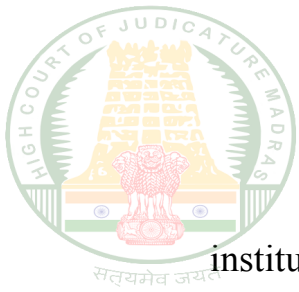
31. In the light of foregoing discussion, we cannot concur with the finding rendered by the Division Bench and accordingly while reversing the finding we hold that the appellant's writ petition under Article 226 of the Constitution against respondent No. 1 is maintainable.”

6. In the second case, the Supreme Court held that as against a private and educational institution if there is no public element involved no writ petition will lie. In paras 75.5 and 76 it was held as follows:-

“From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.

In view of the aforesaid discussion, we hold that the learned single Judge of the High Court was justified in taking the view that the original writ application filed by the respondent No. 1 herein under Article 226 of the Constitution is not maintainable. The Appeal Court could be said to have committed an error in taking a contrary view.”

7. In the second case (St. Mary's case, cited supra), reference was also made to the Janet Jeyapaul case (cited supra). In paragraph 39, the Court distinguished the said case on the ground that it pertained to an



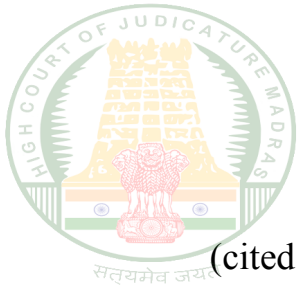
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institution which is a deemed university. Paragraph 39 is extracted below:—

“This Court in Janet Jeyapaul v. SRM University & Ors., reported in 2015 (13) SCALE 622, held that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy, not only under the ordinary law, but also by way of a writ petition under Article 226 of the Constitution. In the case of Binny Ltd. (supra), this Court held that the Article 226 of the Constitution is couched in such a way that a writ of mandamus could be issued even against a private authority. However, such private authority must be discharging a public function and that the decision sought to be corrected or enforced must be in the discharge of public function.”

8. The learned counsel for the Petitioner also placed reliance on the Janet Jeyapaul case (cited supra), which has already been considered and distinguished in the ***St. Mary's*** case (cited supra). In addition, reliance was placed on the judgment of the Hon'ble Supreme Court in ***Marwari Balika Vidyalaya v. Asha Srivastava & Ors., (2020) 14 SCC 449***, to contend that a writ petition against a private educational institution is maintainable.

9. However, the aforesaid decision was subsequently referred to and distinguished by the Hon'ble Supreme Court in the ***St. Mary's*** case



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(cited supra), wherein in paragraphs 62 to 64 it was held as follows:—

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“We may say without any hesitation that the respondent No. 1 herein cannot press into service the dictum as laid down by this Court in the case of Marwari Balika Vidhyalaya (supra) as the said case is distinguishable. The most important distinguishing feature of the case of Marwari Balika Vidhyalaya (supra) is that in the said case the removal of the teacher from service was subject to the approval of the State Government. The State Government took a specific stance before this Court that its approval was required both for the appointment as well as removal of the teacher. In the case on hand, indisputably the government or any other agency of the government has no role to play in the termination of the respondent No. 1 herein.

In context with Marwari Balika Vidhyalaya (supra), we remind ourselves of the Byelaw 49(2) which provides that no order with regard to the imposition of major penalty shall be made by the disciplinary authority except after the receipt of the approval of the disciplinary committee. Thus unlike Marwari Balika Vidhyalaya (supra) where approval was required of the State Government, in the case on hand the approval is to be obtained from the disciplinary committee of the institution. This distinguishing feature seems to have been overlooked by the High Court while passing the impugned order.

In Marwari Balika Vidhyalaya (supra), the school was receiving grant-in-aid to the extent of dearness allowance. The appointment and the removal, as noted above, is required to be approved by the District Inspector of School (Primary Education) and, if any action is taken dehors such mandatory provisions, the same would not come within the realm of private element.”



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10. The distinguishing factors noted therein are not applicable to the case of the 2nd Respondent so as to sustain the present writ petition. Accordingly, the writ petition is liable to be dismissed on the ground of maintainability. Consequently, W.P.(MD) No. 20157 of 2017 stands dismissed. The connected W.M.P. (MD)No.16432 of 2017 is closed. No costs.

29.08.2025

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

LS

To

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Pre-delivery Judgment made in
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