

W.P.(MD) No.20228/23 batch

BEFORE THE MADURAI BNCH OF MADRAS HIGH COURT

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| | |
|---------------|-------------------|
| Reserved on | 27.06.2023 |
| Pronounced on | 25.09.2024 |

CORAM:

THE HON'BLE Ms.JUSTICE. **R.N.MANJULA**

W.P.(MD)No.20228, 23899, 23900, 21191, 20466, 21572, 20440, 20436 to 20438, 20190, 20500, 20439, 19088, 20499, 20950, 20951, 20467, 23860 to 23862 of 2023 and 15665 of 2024 and all connected miscellaneous petitions.

In WP.(MD)No.20228 of 2023

The Principal & Secretary
Lady Doak College
Madurai-625 002
Madurai District.

... 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,
College Road, Chennai 600 006.
- 3.The Joint Director of Collegiate Education,
Madurai Region, Sellur Road, Goripalayam,
Madurai District.



W.P.(MD) No.20228/23 batch

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4. The Registrar,
Madurai Kamaraj university,
Palkalai Nagar, Madurai 625 021.

...Respondents

Prayer in WP.(MD)No.20228/2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARIFIED MANDAMUS calling for the records relating to the impugned proceeding issued by the 3rd respondent University in Ref:CDC-1/Comm/2/220-21 dated 04.01.2021 and quash the same, it is so far it denies qualification approval for the appointment of Dr.H.Shyla Jebashree as Assistant Professor in Botany in the petitioner's college and further direct the 3rd respondent, Madurai Kamaraj University, to give qualification Approval forthwith to the appointment of Dr.H.Shyla Jebashree as Assistant Professor in Botany w.e.f 14.12.2020.

For Petitioner : Mr.Issac Mohanlal, Senior Advocate
for M/s.Issac Chambers
in WP.(MD)Nos.20228, 23899, 23900, , 20466,
21572, 20440, 20436 to 20438, 20190, 20500,
20439, 19088, 20499, 20950, 20951, 20467,
23860 to 23862 , 21191 of 2023.

: M/s A.Amala in WP.(MD)No.15664/24

For Respondents : Mr.T.Amjad Khan,
Government Advocate for RR1 to 3
in WP.(MD)Nos.20228 of 2023

: Mr.M.Siddharthan, AGP for RR1 to 3



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W.P.(MD) No.20228/23 batch

in WP.(MD)Nos.21191, 23899 & 23900/23

: Mr.T.Sakthi Kumaran,
Standing counsel for R4
in WP.(MD)Nos.20228 of 2023 &15664/24
in WP.(MD)Nos.23860 to 23862 of 2023

: Mr.Mahaboob Athiff for R4
in WP.(MD)No.21191, 23899 & 23900/23

: Mr.T.Amjadahan, GA for RR1 to 3
in WP.(MD)Nos.23860 to 23862 of 2023

COMMON ORDER

Heard Mr.Issac Mohanlal, learned Senior Advocate and M/s,Amala learned counsel for the petitioners and Mr.M.Siddharthan, learned Additional Government Pleader and Mr.T.Amjad Khan, learned Government Advocate for the respondent Nos.1 to 3 and Mr.T.Sakthi Kumaran and Mr.Mahaboob Athiff, learned counsels for the respondent No.4 and perused the materials available on records.

2. These Writ Petitions have been filed challenging the impugned proceeding issued by the 3rd respondent University in Ref:CDC-1/Comm/2/220-21 dated 04.01.2021 and to direct the 3rd



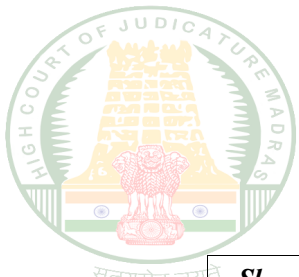
W.P.(MD) No.20228/23 batch

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respondent, Madurai Kamaraj University, to give qualification Approval forthwith to the appointment of the individuals as Assistant Professor in the respective petitioner's college.

3. These petitioners are the colleges affiliated to the Madurai Kamaraj University and they are minority institutions. Except the Rajapalayam Raja's College, all other colleges are autonomous institutions also. They made appointments to the posts of 'Assistant Professor' and 'Principal' as detailed in the following schedule:

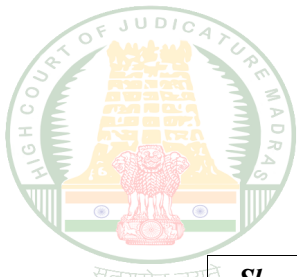
| <i>Sl. No.</i> | <i>Writ Petitions</i> | <i>Name of the Institution</i> | <i>Name of the candidate(s)</i> | <i>Date of appointment</i> | <i>Post for which appointment is made</i> |
|----------------|----------------------------|--------------------------------|---------------------------------|----------------------------|---|
| 1 | W.P.(MD) No. 20228/2023 | Lady Doak College, Madurai | H.Shyla Jebashree | 14.12.2020 | Assistant Professor |
| 2 | W.P.(MD) No. 20500 of 2023 | Rajapalayam Raju's College | V.Moniha | 02.01.2023 | Assistant Professor |
| 3 | W.P.(MD)No. 20499 of 2023 | Rajapalayam Raju's College | A.Divya | 02.01.2023 | Assistant Professor |



W.P.(MD) No.20228/23 batch

WEB COPY

| <i>Sl. No.</i> | <i>Writ Petitions</i> | <i>Name of the Institution</i> | <i>Name of the candidate(s)</i> | <i>Date of appointment</i> | <i>Post for which appointment is made</i> |
|----------------|----------------------------|--------------------------------|--|--|---|
| 4 | W.P.(MD) No. 19088 of 2022 | Fatima College | V.Arul Deepa J.Sahaya Bowlin P.Ruby Leela K.Praveena I.Janet Sherly J.R.Sofia | 26.07.2021 26.07.2024 13.09.2021 13.09.2021 26.07.2021 15.09.2021 | Assistant Professor |
| 5 | W.P.(MD)No. 21572/2023 | Fatima College | J.Selvi K.Sangeetha C.Priyalatha | 22.08.2022 22.08.2022 01.02.2023 | Assistant Professor |
| 6 | W.P.(MD) No. 20467/2023 | Lady Doak College | G.Koperundevi | 03.01.2022 | Assistant Professor |
| 7 | W.P.(MD) No. 20466/2023 | Lady Doak College | Diya Susan Baby | 08.08.2022 | Assistant Professor |
| 8 | W.P.(MD) No. 20951/2023 | Lady Doak College | Annie Priyadharsini | 01.08.2022 | Assistant Professor |
| 9 | W.P.(MD) No. 20950/2023 | Lady Doak College | E.Aruna | 14.09.2022 | Assistant Professor |
| 10 | W.P.(MD) No. 20440/2023 | Lady Doak College | P.Silviya Reeta | 03.08.2022 | Assistant Professor |
| 11 | W.P.(MD) No. 20439/2023 | Lady Doak College | Evangeline Esther David | 14.12.2020 | Assistant Professor |
| 12 | W.P.(MD) No. 20438/2023 | Lady Doak College | Padmaja | 14.12.2020 | Assistant Professor |
| 13 | W.P.(MD) No. 20437/2023 | Lady Doak College | Nikita Thekkumkattil George | 14.12.2020 | Assistant Professor |
| 14 | W.P.(MD) No. 20436/2023 | Lady Doak College | M.Keerthana | 15.12.2020 | Assistant Professor |



W.P.(MD) No.20228/23 batch

WEB COPY

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|----------------|-------------------------|--------------------------------|---------------------------------|----------------------------|---|
| 15 | W.P.(MD) No. 20190/2023 | Lady Doak College | Trace Benny | 14.12.2020 | Assistant Professor |
| 16 | W.P.(MD) No. 23861/2023 | Arul Anandar College | M.Anbarasu | 01.06.2023 | Principal |
| 17 | W.P.(MD) No. 23860/2023 | Arul Anandar College | E.Nandakumar | 19.07.2021 | Assistant Professor |
| | | | A.Ratheesh | 19.07.2021 | |
| | | | C.Justin Dravid | 19.08.2021 | |
| 18 | W.P.(MD) No. 23862/2023 | Arul Anandar College | M.John Selvaraj | 18.08.2022 | Assistant Professor |
| 19 | W.P.(MD) No. 23900/2023 | Sadakathullah Appa College | S.M.Abdul Kader | 01.06.2022 | Principal |
| 20 | W.P.(MD) No. 23899/2023 | Sadakathullah Appa College | P.Amra Mariyam | 09.05.2022 | Assistant Professor |
| | | | Asweel Ahmed A Jaleel | | |
| | | | S.Nazareth Begum | | |
| | | | A.Freinfathima | | |
| | | | M.A.Sabitha | | |
| | | | P.S.Bensi | | |
| | | | M.Syed Ali | | |
| K.Hafsal | | | | | |
| 21 | W.P.(MD) No. 15665/2024 | Fatima College | A.J.Bernita | 03.07.2023 | Assistant Professor |
| | | | S.maria Nisha | 03.07.2023 | |
| | | | N.Jeny | 07.08.2023 | |
| | | | M.Angel | 07.08.2023 | |
| 22 | W.P.(MD) No. 21191/2023 | St.Xavier's College | S.Mariadoss S.J | 18.09.2021 | Principal |



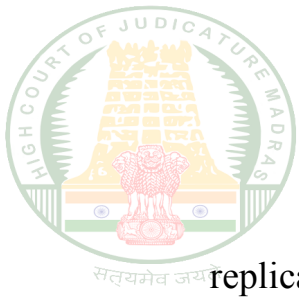
W.P.(MD) No.20228/23 batch

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4. When the qualification of approval for the appointees is sought from the university, the University refused to grant approval stating that the appointments have been made without forming a Selection Committee as per the U.G.C Regulation -2018. Hence, these petitions.

5. Mr.Issac Mohanlal, learned Senior Advocate for the petitioners submitted that the University cannot compel the minority institutions to form a Selection Committee and the position of law in this regard has already been held by the judgement of the Division Bench of this Court in the case of *The Forum of Minority Institutions and Associations Vs. The State of Tamil Nadu and other* [reported in *2011(1) CTC 162*].

6. The issue involved in the above matter is about the similar regulation contemplated with regard to Selection Committee under U.G.C Regulations 2000 and 2010 and its applicability to the minority institutions. In the said case, it is held that the U.G.C Regulations for constituting a Selection Committee were not applicable to the minority institutions. It is further held that the U.G.C Regulations-2010 had

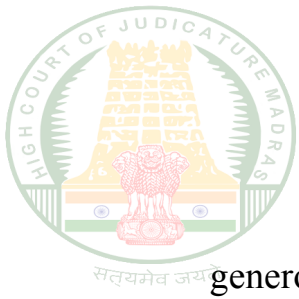


W.P.(MD) No.20228/23 batch

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replicated the very same clause mandating Selection Committee under Regulation -2000 and hence they are not applicable to minority institutions.

7. So it is claimed by the learned counsel for the petitioner that the identical Regulation for Selection Committee in 2018 also cannot be made applicable. In view of the same, the appointment of teachers is one of the important administrative aspect of the minority institutions and hence, insisting them to have a Selection Committee is violative of the rights guaranteed to the minority institutions under Art.30(1) of the Constitution of India. The Hon'ble Supreme Court in various decisions held that the States' Regulatory power in minority colleges is restricted to the prescription of qualification and the power does not extend to the prescription of methodology of recruitment and constitution of Selection Committee. The management for Committee of the minorities institution has a right to appoint teachers who are compatible with the aspirations and outlook of the minority institutions. In view of the above interpretations given to Article 30 of the Constitution of India, a liberal,



W.P.(MD) No.20228/23 batch

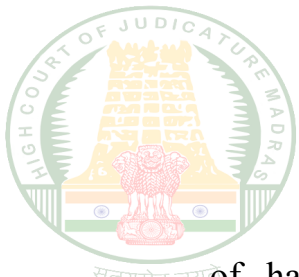
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generous and sympathetic approach is expected while interpreting Article 30, as it is a basic structure of the Indian constitution.

8. Mr.T.Sakthi Kumaran, learned counsel for the 4th respondent submitted that the very same issue has been raised in earlier Writ Petition in *WP.(MD)No.3008 of 2021[The American College rep. by its Principal & Secretary Vs. The University Grants Commission and another]* in which a co-ordinate Bench has dismissed the petition citing the case of *Professor (Dr.) Sreejith P.S. Vs. Dr.Rajasree M.S. And Others* reported in *2022 SCC OnLine SC1473* which held that the U.G.C Regulations 2018 has already been adopted and implemented and hence the appointments of teachers should be made only as per the U.G.C Regulations and hence, the qualification approval for the appointments made without constituting the Selection Committee cannot be granted.

Discussion:

9. The crux of the submissions made by the learned counsel for the petitioner is that once it is held by the Superior Courts that the mandate



W.P.(MD) No.20228/23 batch

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of having a Selection Committee is not applicable to a minority institution while dealing with the U.G.C Regulations 2000, there can not be any difficulty to hold that the very same regulation reinforced in U.G.C Regulations-2018 is also not applicable to such institution. The applicability of U.G.C Regulation 2000 and 2010 has been the subject matter of the batch of writ petitions before the Division Bench of this Court in the case of *The Forum of Minority Institutions and Associations(cited supra)*. Clause 5.1.5 of U.G.C Regulations 2000, provides for the constitution of Selection Committee in the minority educational institutions and the same provisions are continued to be found place under Clause 5.1.5 of the U.G.C Regulation 2010. As the minority institutions are affected due to the above clause in the U.G.C Regulations, they formed an association between themselves and challenged the applicability of the same by claiming that the above regulation is in direct contradiction to the minority rights guaranteed under Article 30 of the Constitution of India.



W.P.(MD) No.20228/23 batch

WEB COPY

10. It was argued before the Court by the State that the regulatory measures are designed to make the institutions as effective instruments for imparting education and hence it cannot be considered as something infringing their rights guaranteed under Article 30 of the Constitution of India and the rights of minorities are subjected to reasonable restrictions.

11. The minority institutions contended that they have the autonomy in the matter of administration and that would only mean the right to administer effectively to manage and conduct the affairs of their institutions on their own. In the name of Regulations no restrictions should be placed on the right of the administration.

12. In the case of *The Secretary, Malankara Syrian Catholic College Vs. T. Jose and Ors* reported in *2007(1)SCC386*, the Hon'ble Supreme court has upheld the following principles in the establishment and administration of educational institutions by minorities and it has been summarized as under:

"19. The general principles relating to establishment and administration of educational institution by minorities may be summarized thus:



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W.P.(MD) No.20228/23 batch

(i) The right of minorities to establish and administer educational institutions of their choice comprises the following rights :

a) To choose its governing body in whom the founders of the institution have faith and confidence to conduct and manage the affairs of the institution;

b) To appoint teaching staff (Teachers/Lecturers and Head-masters/Principals) as also non-teaching staff; and to take action if there is dereliction of duty on the part of any of its employees;

c) To admit eligible students of their choice and to set up a reasonable fee structure;

d) To use its properties and assets for the benefit of the institution;

(ii) The right conferred on minorities under [Article 30](#) is only to ensure equality with the majority and not intended to place the minorities in a more advantageous position vis-`-vis the majority. There is no reverse discrimination in favour of minorities. The general laws of the land relating to national interest, national security, social welfare, public order, morality, health, sanitation, taxation etc. applicable to all, will equally apply to minority institutions also.

(iii) The right to establish and administer educational institutions is not absolute. Nor does it include the right to maladminister. There can be regulatory measures for ensuring educational character and standards and maintaining academic excellence. There can be checks on administration as are necessary to ensure that the administration is efficient and sound, so as to serve the academic needs of the institution. Regulations made by the State concerning generally the welfare of students and teachers, Regulations laying down eligibility criteria and qualifications for appointment, as also conditions of service of employees (both teaching and non-teaching),



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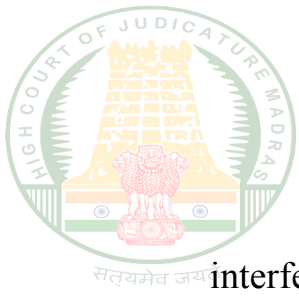
W.P.(MD) No.20228/23 batch

Regulations to prevent exploitation or oppression of employees, and Regulations prescribing syllabus and curriculum of study fall under this category. Such Regulations do not in any manner interfere with the right under [Article 30\(1\)](#).

(iv) Subject to the eligibility conditions/qualifications prescribed by the State being met, the unaided minority educational institutions will have the freedom to appoint teachers/Lecturers by adopting any rational procedure of selection.

(v) Extention of aid by the State, does not alter the nature and character of the minority educational institution. Conditions can be imposed by the State to ensure proper utilization of the aid, without however diluting or abridging the right under [Article 30\(1\)](#).

13. However, in the case of *T.M.A PAI foundation and Ors Vs. State of Karnataka and Ors* reported in the *2002 (8) SCC 481*, the Hon'ble Supreme Court has held that the right of minorities can be subjected to reasonable restrictions. While answering the question as to whether the Statutory provisions which regulates the various facets of an administration like control over educational agencies, governing bodies, conditions of affiliation including recognition / withdrawal thereof when the appointment of staff, employees, teachers and principals including their service conditions and regulation of fees etc., amounts to



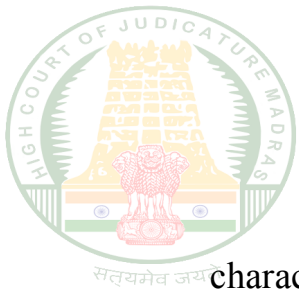
W.P.(MD) No.20228/23 batch

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interference with the right of administration of minority institution, the Court has held that the regulatory measure of control should be minimal.

14. But in the matter of day to day management like appointment of staff, teaching and non teaching and respective administrative control over them, the management should have the freedom and there should not be any external controlling agency. But the regulatory measures in terms of prescribing minimum qualification, salaries, experience and other conditions bearing on the merit of the individual for being appointed as Teacher should be followed by the minority institution. It is further held that the extent of regulation will not be the same for aided and unaided institutions. However, the minority institutions does not lose its character or nature/ management, merely due to the receipt of aid from the State or its agencies.

15. The very same principle has been reiterated in *The Secretary, Malankara Syrian Catholic College* (cited supra) and the Hon'ble Supreme Court has held that the receipt of aid does not alter the nature or



W.P.(MD) No.20228/23 batch

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character of the minority educational institutions receiving aid. Even in the matter of choice of appointments of teachers the minority institutions have a choice in prescribing the qualification for appointment compatible to its ideals, aims, aspirations, outlook, physiology, language, religion and culture.

16. The Hon'ble Supreme Court has restated the above notion in the case of *The Ahmedabad St. Xaviers College vs State Of Gujarat & Anr* reported in *1974 (1) SCC 717*. So far as the field of administration is concerned, there cannot be any quarrel that minority institutions can have complete autonomy. Checks and balances are necessary only in order to ensure that the administration is efficient and sound and it serves the academic needs of the institutions. *In Re: The Kerala Education Bill, 1957 cases*, the Supreme Court has expressed the same sentiments and held that the legislative power of the State cannot indirectly take away or abridge; the fundamental rights.



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17. In the matter of selection and appointment of principals and teachers, it has been held that the State's regulatory power if minority colleges is restricted to the prescription of qualification and the power does not extend to the prescription of methodology of recruitment, constitution of selection committee etc. In the case of *The Ahmedabad St. Xaviers College (cited supra)* the Hon'ble Supreme Court has held that the minorities right to administer contains four essential elements and they are;

- (i) *the rights to choose and manage its governing body with whom the founders have faith and confidence;*
- (ii) *the right to choose its teachers compatible to its aim, ideals and aspirations of the institutions;*
- (iii) *they should not be compelled to refuse admission to students and they have right to admit the students of their choice subject to reasonable relations about the academic qualifications; and*
- (iv) *the right to use its properties and assets for the*



W.P.(MD) No.20228/23 batch

benefit of its own institutions.

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18. So the issue involved in this case revolves around the 2nd segment of the above rights assured to the minority institutions. While rendering the above judgement, the Supreme Court of India was conscious of the fact that in assuming the rights of the minority institutions guaranteed under Article 30 (1) of the Constitution of India, there were a difference of opinion and difficulties in understanding the various dimensions of those rights in a given situation and that raises various litigations.

19. The instant case also has arisen from one such situation as the university has reservations in granting approval for the educational qualification of the teachers appointed by the petitioners' institution by insisting that the teachers for the minority institutions should be selected only thorough the selection committee as prescribed under the U.G.C. Regulations 2018.



W.P.(MD) No.20228/23 batch

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20. In this regard, it necessitates to reiterate that the Supreme Court has held in the case of *T.M.A PAI foundation and Ors* (cited supra) that in the matter of administration like appointment of staff, teaching and non- teaching and administrative control over them, the management shall have the freedom and there should not be any controlling agency. It is further held that the rational procedure for such functions of selection of teaching staff and for taking any disciplinary action should be evolved by the management itself.

21. The above issue of academic appointment has once again surfaced in *Sindhi Education Society & Anr vs Chief Secretary, Govt. Of Nct of Delhi and Ors* [reported in 2010 (8) SCC 49], wherein it is held that just because the government is providing grant in aid the right of establishing the administration including the right to appoint teachers the above right cannot be taken away directly or indirectly. So it is held that the provisions of DSC Act which restricts such right is held to be unconstitutional.

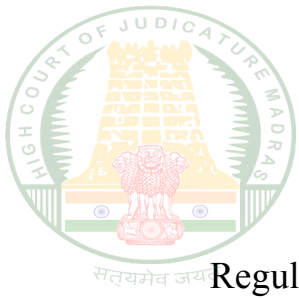


W.P.(MD) No.20228/23 batch

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22. However this Court in the case of *The American College vs The University Grants Commission in WP.(MD)No.3008 of 2021* has made a reference about the judgement of the Hon'ble Division Bench judgement in the case of *The Forum of Minority Institutions and Associations (cited supra)* which struck down clause 3 annexure of the U.G.C. Regulations 2000, 5.1.4. The above regulation pertains to the constitution of selection committee and the same has been reintroduced in 5.1.4 of the U.G.C. Regulation 2010 also. The above rules mandate the constitution of selection committee for the appointment of Assistant Professors.

23. By extending the rationale of the forum of the minority institution to 5.1.4 of the U.G.C. Regulation 2010, the minority institutions were getting the same benefit. In fact 2010 Regulations were brought in when the case of *The Forum of Minority Institutions and Associations* was pending. Once again the same Regulations have been adopted in U.G.C. Regulations 2018 under regulation 5.1.5. In fact, it is the verbatim reproduction of the Regulation 5.1.4 of the U.G.C.



W.P.(MD) No.20228/23 batch

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Regulation 2010. However, a coordinate Bench of this Court in the case of *The Ahmedabad St. Xaviers College (cited supra)* in W.P.No. 3008 of 2021, has held that all those States which have adopted the U.G.C. Regulations, shall follow the regulation of 5.1.5 of the U.G.C. Regulations 2018.

24. However the question involved in this case is not whether the U.G.C. Regulations is enforceable in States which had adopted the same. The issue which has arisen in this case is whether the Regulations 5.1.4 and 5.1.5 of the U.G.C. Regulations 2018 which prescribes a constitution of selection committee for the appointment of assistant professors is applicable to the minority institutions.

25. Even though the above issue was arisen in W.P.No.3008/2021, there is no specific answer given to its applicability to the minority institutions. Even though references have been made about certain judgements of the Hon'ble Supreme Court involving the right of minority institutions in the matter of appointment, no observation has been made



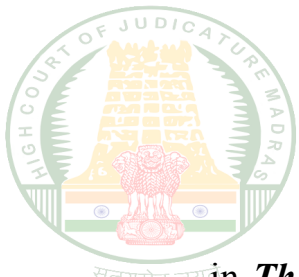
W.P.(MD) No.20228/23 batch

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about the application of the same more specifically about the applicability of the rationale of the Supreme Court cases to the matter in issue.

26. There is no quarrel on the point that the selection committee plays a vital role in the matter of selection and that the University of the State which adopted the U.G.C. Regulations have to follow the Regulations. Now the vital questions is whether the State's preference to adopt the U.G.C. Regulations would deprive the rights of minority institutions in making their own appointments, if they do not have a selection committee as contemplated under the U.G.C. Regulations 2018.

27. The very same U.G.C. regulation of the year 2000 which was challenged by the *The Forum of Minority Institutions and Associations (cited supra)* before the Hon'ble Division Bench of this Court has resulted in laying down the law that the above regulation is not applicable to the minority institutions. In fact the U.G.C. regulation 2010 has come into force during the relevant point of time when the case



W.P.(MD) No.20228/23 batch

in *The Forum of Minority Institutions and Associations (cited supra)*
was pending.

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28. When a certain provision of the U.G.C Regulations of the previous year has been held inapplicable, it is needless to state that the verbatim reproduction of the same regulation of the year 2010 in the subsequent U.G.C. Regulations 2018 cannot have a different impact, even in the absence of any case challenging the same is filed and decided. A different application and significance can not be given to such old wine filled up in a new bottle.

29. The impugned Clause 5.1.5. of UGC Regulation 2018 is extracted under. A self comparison of the same with the earlier regulations can show that it does not have any different word or meaning than the previous ones.

U.G.C Regulations 2018

5.1 (V). Assistant Professor in ling Private Colleges including Private Colleges:

(a) The Selection Committee for the post of Assistant Professor in Colleges including Private Colleges shall have the following composition:



W.P.(MD) No.20228/23 batch

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i) Chairperson of the Governing Body of the college or his/her nominee from among the members of the Governing body to be the Chairperson of the Selection Committee.

ii) The Principal of the College.

iii) Head of the Department of the concerned subject in the College.

iv) Two nominees of the Vice Chancellor of the affiliating university of whom one should be a subject expert. In case of colleges notified/declared as minority education institutions, two nominees of the Chairperson of the college from out of a panel of five names, preferably from minority communities, recommended by the Vice Chancellor of the affiliating university from the list of experts suggested by the relevant statutory body of the college, of whom one should be a subject expert.

i) Two subject-experts not connected with the college to be nominated by the Chairperson of the governing body of the college out of a panel of five 23 names recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the university concerned. In case of colleges notified/declared as minority educational Institutions, two subject experts not connected with the University to be nominated by the Chairperson of the Governing Body of the College out of the panel of five names, minority preferably recommended by from communities, the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the College.

ii) An academician representing SC/ST/OBC/ Minority/ Women/Differently-abled categories, if any of candidates representing these categories is the applicant, to be nominated by the Vice Chancellor, if any of the above members of the selection committee do not belong to that category.



W.P.(MD) No.20228/23 batch

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(b) Five members, including two outside subject experts, shall constitute the quorum."

30. The members of the selection committee includes the outsiders.

By inducting them and giving them the power to select the appointees for the minority institution would amount to allowing them to interfere with the administration of the minority institutions. As the appointment of teachers is an administrative function over which the minority institutions have got their own autonomy, it can not be given in the hands of the outsiders in the name of a selection committee. What cannot be done directly cannot be allowed to be done indirectly as well.

31. No doubt the quality of education and the quality of teachers appointed to the post is very much essential. It is not only in the interest of the students who aspire to achieve excellence but also in the interest of the nation. If the appointees does not possess the mandatory qualification, then there may be some room for interference in the national interest.



W.P.(MD) No.20228/23 batch

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32. In the case in hand, it is not claimed that the persons appointed by the petitioners colleges suffer from any lack of qualification. In fact, the qualification approval is sought by the colleges following the directions given by this court in the judgement of the Hon'ble Division Bench in the case of *P.Ravichandran Vs. State of Tamil Nadu reported in (2013) 7 MLJ 641.*

33. So in all fairness and confidence the Universities themselves have sought the qualification approval. In fact all the petitioners except the Rajapalayam Raja's College are autonomous institutions. There is no complaint what so ever received from any angle that the standard of these colleges have gone down due to lack of meritorious faculties.

34. In fact these institutions are mostly sought after colleges and there has been always a demand for admission of students. The colleges retain its autonomy only because it could maintain the standards as per the Regulations prescribed in this regard.

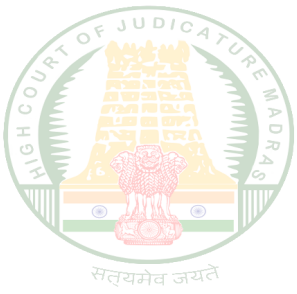


W.P.(MD) No.20228/23 batch

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35. The U.G.C. conferment of autonomous status upon colleges and measures for maintenance of standards in colleges [Regulation 2018] will lay down the terms and conditions for the constitution colleges to retain its autonomous standards.

36. One of the conditions for eligibility is the constituent colleges ought to have got 10 years existence. Some of the petitioners' colleges are in existence for several decades and they have the best performance track records. Only because they maintain the required rank score, their autonomous status is not disturbed. In fact the decision for conferment of/extension of autonomous status would be taken by a standing committee which is comprised of three members. So the standard maintained by the petitioners college has been subjected to periodical scrutiny by the above three members of the standing committee. Only upon their recommendations the conferment for extension of autonomy has been granted.



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37. Yet another important criterion for granting autonomy is the quality and merit of the students and teachers subject to the statutory requirement in this regard. For a better understanding the relevant regulation No.8 of the U.G.C. conferment of autonomous status of colleges and measures upon maintaining the standards of autonomous colleges under U.G.C. regulation 2018, is reproduced hereunder:

"CRITERIA FOR GRANTING AUTONOMY TO COLLEGES

8.1 Academic reputation and previous performance in university examinations and its academic/co Curricula extension activities in the past

8.2 Academic/extension/research achievements of the faculty

8.3 Quality and merit in the selection of students and teachers, subject to statutory requirements in this regard

8.4 Adequacy of infrastructure in terms of class rooms, library books and e-resources, laboratories and equipments. sports facilities, facilities for recreation activities, residential accommodation for faculty and students, transport facilities etc.

8.5 Quality of institutional management

8.6 Financial strength of the institution

8.7 Responsiveness of administrative structure



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W.P.(MD) No.20228/23 batch

8.8 Motivation and involvement of faculty in the promotion of innovative reforms"

38. So the conferment and extension of autonomous status upon these colleges would give an implied approval for the quality and merit in the selection of the teachers and the students of the respective colleges. Hence the very same exercise expected to be done the selection committee in the matter of appointment is superfluous and it is an unnecessary interference as well. The above Regulations have got enough provisions for monitoring the performance of the autonomous colleges, which devise their own courses and syllabus. Hence it is appropriate for such institutions to make suitable appointments for their own requirements without any external influence.

39. In fact, the petitioners who are minority institutions as well as autonomous bodies have got a double layered protection; one by virtue of their minority status and another in view of their autonomous status.



W.P.(MD) No.20228/23 batch

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40. So far as the non-autonomous but minority institutions are concerned, it has a one level protection under Article 30(1) of the Constitution of India. When the law is laid down in respect of non-applicability of U.G.C. Regulation 2000, the replication of the same in later U.G.C. Regulations 2010 and 2018 can also be of the same consequence and they need not be viewed in any different angle. Since there are checks and balances to ensure the fair and proper administration of the minority institutions even though they have the administrative autonomy, it is needless to induct any outsiders in the form of selection committee to disturb the calm water administration of the minority institutions.

41. When one regulation of U.G.C. prescribes certain standards and autonomous status is conferred due to the compliance of the same, the other U.G.C regulation can not stultify the same. The regulation concerning selection committee can not be mandated against the minority institution as that will go counter-productive and self-contradictive to their well approved autonomous status. Hence the above two U.G.C



W.P.(MD) No.20228/23 batch

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Regulations of U.G.C. and hence in all fairness these Regulations have to be read harmoniously and such reading will also leave only one inference that the selection of faculties in the cadre of assistant professors to minority institutions shall not be compelled to be made through any selection committee contemplated in the U.G.C Regulations.

42. In view of the above stated reasons;

(i) The Writ Petition in W.P.(MD)No.20228/2023 is **allowed** and the impugned proceeding issued by the 3rd respondent University in Ref:CDC-1/Comm/2/220-21 dated 04.01.2021 is quashed;

(ii) The Writ Petition in W.P.(MD)No.20500 of 2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref. No. Dean (CDC)/RRC/2023 dated 25.05.2023 is quashed;

(iii) The Writ Petition in W.P.(MD)No.20499 of 2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref. No. Dean (CDC)/RRC/2023 dated 25.05.2023 is quashed;



W.P.(MD) No.20228/23 batch

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(iv) The Writ Petition in W.P.(MD) No.19088 of 2022 is **allowed** and the impugned proceeding issued by the University in Ref. No. CDC/FC/2022 dated 05.08.2022 is quashed;

(v) The Writ Petition in W.P.(MD) No.21572/2023 is **allowed** and the impugned proceeding issued by the University in Ref. No. Dean (CDC)/FC/2023 dated 25.05.2023 is quashed;

(vi) The Writ Petition in W.P.(MD) No.20467/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref: CDC/LDC/2022 dated 20.09.2022 is quashed;

(vii) The Writ Petition in W.P.(MD) No.20466/2023 is **allowed** and the impugned proceeding issued by the respondent University in Ref: CDC/LDC/2022 dated 20.09.2022 is quashed;

(viii) The Writ Petition in W.P.(MD) No.20951/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref: No. CDC/LDC/2022 dated 16.11.2022 is quashed;



W.P.(MD) No.20228/23 batch

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(ix) The Writ Petition in W.P.(MD) No.20950/2023 is **allowed** and the impugned proceeding issued by the respondent 17. 10 University in Ref: CDC/LDC/2022 dated 20.09.2022 is quashed;

(x) The Writ Petition in W.P.(MD) No.20440/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref: CDC/LDC/2022 dated 20.09.2022 is quashed;

(xi) The Writ Petition in W.P.(MD) No.20439/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref: CDC-1/Comm/2/2020-21 dated 04.01.2021 is quashed;

(xii) The Writ Petition in W.P.(MD) No.20438/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref. No. CDC-1/Comm/2/2020-21 dated 04.01.2021 is quashed;

(xiii) The Writ Petition in W.P.(MD) No.20437/2023 is **allowed** and the impugned proceeding issued by the 3rd respondent University in Ref:



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W.P.(MD) No.20228/23 batch

CDC-1/Comm/2/2020-21dated 04.01.2021 is quashed;

(xiv) The Writ Petition in W.P.(MD)No.20436/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in Ref: CDC-1/Comm/2/2020-21dated 04.01.2021 is quashed;

(xv) The Writ Petition in W.P.(MD)No.20190/2023 is **allowed** and the impugned proceeding issued by the 3rd respondent University in Ref: CDC-1/Comm/2/2020-21dated 04.01.2021 is quashed;

(xvi) The Writ Petition in W.P.(MD) No.23861/2023 is **allowed** and the impugned proceedings issued by the 4th respondent University in Ref: No. Dean (CDC)/AC/2023 dated 08.09.2023 is quashed;

(xvii) The Writ Petition in W.P.(MD)No.23862/2023 is **allowed** and the impugned proceeding issued by the 4th respondent Madurai Kamaraj University in Ref:No.CDC/AAC/2022 dated 20.09.2022 is quashed;

(xviii)The Writ Petition in W.P.(MD)No.23860/2023 is **allowed** and the impugned proceeding issued by the



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W.P.(MD) No.20228/23 batch

4th respondent University in Ref.No.CDC/AA/2022 dated 01.03.2022 is quashed;

(ix) The Writ Petition in W.P.(MD) No.23899/2023 is **allowed** and the impugned proceeding issued by the 4th respondent University in MSU/R/CDC/A4/QA/A.P/Prop.Return/2022 dated 11.10/2022 is quashed;

(xx) The Writ Petition in W.P.(MD) No.15665/2024 is **allowed** and the impugned proceeding issued by the University in Ref. No. Dean (CDC)/FC/2024 dated 18.01.2024 is quashed;

(xxi) The Writ Petition in W.P.(MD) No.21191/2023 is **allowed** and the impugned proceedings issued by the 4th respondent University in MSU/R/CDC/A4/128/QA/Principal dated 09.02.2022 is quashed;

(xxii) The Writ Petition in W.P.(MD) No.23900 of 2023 is **allowed** and the impugned proceedings issued by the 4th respondent University in MSU/R/CDC/A4/QA/Principal/Prop.Return/2022 dated



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W.P.(MD) No.20228/23 batch

16.08.2022 is quashed; and

(xxiii) There shall be a direction to the respondent university to re-consider the applications submitted by the petitioners college to grant qualification approval for the appointments made by the petitioners colleges without insisting the selection committee procedure contemplated in the U.G.C Regulations-2018.

(xxiv) The above exercise shall be completed within a period of 4 weeks.

(xxv) No costs. Consequently, the connected miscellaneous petitions are closed.

25.09.2024

BKN/jrs

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



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W.P.(MD) No.20228/23 batch

R.N.MANJULA, J.

jrs

To

1. The Secretary,
State of Tamil Nadu
Department of Higher Education
Fort St.George, Chennai 600 009.
2. The Director of Collegiate Education,
College Road, Chennai 600 006.
3. The Joint Director of Collegiate Education,
Madurai Region, Sellur Road, Goripalayam,
Madurai District.
4. The Registrar,
Madurai Kamaraj university,
Palkalai Nagar, Madurai 625 021.

**W.P.(MD)No.20228, 23899, 23900, 21191, 20466, 21572, 20440, 20436
to 20438, 20190, 20500, 20439, 19088, 20499, 20950, 20951, 20467,
23860 to 23862 of 2023 and 15665 of 2024 and
All connected miscellaneous petitions**

25.09.2024