

W.P.(MD)Nos.22143, 22144, 22365 and 22366 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 12.11.2024

Delivered On : **12.02.2025**

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.22143, 22144, 22365 and 22366 of 2018

and

W.M.P.(MD)Nos.20073, 20074, 20075, 20262, 20263 and 20264 of 2018

The Secretary,
Jeyaraj Annapackiam College,
for Women (Autonomous),
Mount St. Anne, Periyakulam,
Theni District – 625 601,
Managed by the Congregation of
The Sisters of St.Anne, Tiruchirapalli.

... Petitioner in
W.P.(MD)No.22143 of 2018

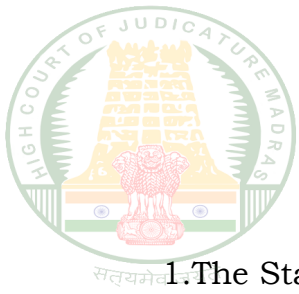
The Principal,
Crescent College of Education for Women,
Seethakathi Nagar, Kallampatti,
Chathrapatti Post – 625 014,
Madurai District.

... Petitioner in
W.P.(MD)No.22144 of 2018

The Secretary,
St.Xavier's College of Education (Autonomous),
Palayamkottai – 627 002,
Tirunelveli District.

... Petitioner in
W.P.(MD)Nos.22365 and 22366 of 2018

Vs.



W.P.(MD)Nos.22143, 22144, 22365 and 22366 of 2018

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 State Minority Commission,
Rep. By its Member Secretary,
735, Anna Salai, L.L.A. Building,
Chennai – 600 002.

... Respondents in all W.Ps.

COMMON PRAYER in W.P.(MD)Nos.22143, 22144 and 22365 of 2018: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the third respondent, Member Secretary of State Minority Commission in R.C.No.A1/408/2018, dated 14.08.2018, quash the same.

PRAYER in W.P.(MD)No.22366 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the third respondent, Member Secretary of State Minority Commission in R.C.No.A1/408/2018, dated 23.07.2018, quash the same.

For Petitioner (in all W.Ps.)	: Mr.Issac Mohanlal, Senior Counsel For M/s.Isaac Chambers
For Respondents (In all W.Ps.)	: Mr.Ohm Prakash Government Advocate

COMMON ORDER

Challenging the impugned proceedings issued by the third respondent, Member Secretary of State Minority Commission in R.C.No.A1/408/2018, dated 14.08.2018 and 23.07.2018 respectively, these



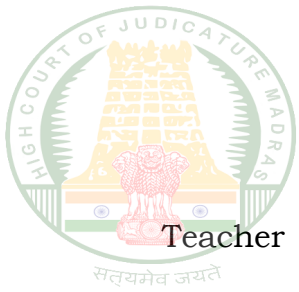
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Writ Petitions are filed.

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2.The writ petitioner in W.P.(MD)No.22143 of 2018 is a College, namely, Jeyaraj Annapackiam College for Women, Periyakulam, founded and administered by the Congregation of the Sisters of St.Anne, Tiruchirappalli. The same is registered as a Society and the members and officers of the Society are all Christians, more particularly nuns. They belong to the Roman Catholic Order of Christianity. The said College is a recognized minority educational institution, which was initially affiliated to Madurai Kamaraj University as established in the year 1971. From the year 2002, the College stands affiliated to the Mother Theresa Women's University and the same is a partly aided College by the Government of Tamil Nadu. The said College is an Arts College.

3.The petitioner College in W.P.(MD)No.22144 of 2018 is the Crescent College of Education for Women, Kallampatti, Madurai District, administered by All India Islamic Foundation, Chennai. The same is registered as a Society and all the members and officers of the said Society belong to Muslim community. Thus, this petitioner College is a religious minority educational institution and is one among the most reputed women's college in the State and the same is a self-financed College established during the academic year 2005-2006, which was originally affiliated to Madurai Kamaraj University, Madurai and later with Tamil Nadu



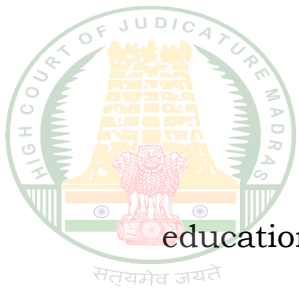
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Teacher Educational University, Chennai, from the year 2008. The College offers two years B.ed., degree course.

4.The petitioner College in W.P.(MD)No.22365 of 2018, namely, St. Xavier's College of Education, Palayamkottai, is run by the Society of St.Francis Xavier, a body registered under the Society's Registration Act, which was established in the year 1950. The said College is offering one year B.Ed and one year M.Ed degree courses and the same is aided by the Government of Tamil Nadu.

5.The petitioner College in W.P.(MD)No.22366 of 2018, namely St.Xavier's College, Palayamkottai, is one among the recognized educational institutions administered by the Society, namely, St.France, Xavier, a body registered under Society's Registration Act. It is a recognized minority education institution and is a partly aided College by the State. The said College is a Arts and Science College.

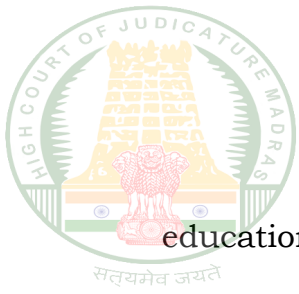
6.All the four Colleges have filed these Writ Petitions, challenging the impugned proceedings issued by the third respondent, Member Secretary of State Minority Commission in R.C.No.A1/408/2018 dated 14.08.2018 and 23.07.2018 respectively, requiring the respective Colleges to depute officials along with authorization letter from the Principal along with the details of the student's admission with all admission records of the respective



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educational institution admitted in the past three academic years from 2016-2017 to 2018-2019 on various dates, more particularly, on 05.09.2018, 29.08.2018, 20.09.2018 and 14.08.2018 respectively. The impugned letter would reveal that the State Minorities Commission had decided to verify whether the guidelines pertaining to the minority institutions are followed promptly, as per the Government Orders in G.O.Ms.No.270, Higher Education (J1) Department dated 17.06.1998, G.O.Ms.No.206, Personal and Administrative Reforms (K8) Department dated 06.11.2008 and for verifying whether the mandates of the aforesaid Government Orders have been followed promptly by the petitioner Colleges. The Member Secretary of the State Minorities Commission had required the writ petitioners to depute officials with the entire details of student admission for the past three academic years from 2016-2017 to 2018-2019. Challenging the same, these Writ Petitions are filed.

7.The learned Senior Counsel appearing for the writ petitioners submitted that the third respondent State Minority Commission lacks authority to fix any criteria in the matter of admission in minority institutions. He further insisted that the impugned proceedings involving in the matter of admission of students in minority educational institution is arbitrary, illegal and unconstitutional and the same is without jurisdiction. The Tamil Nadu Private Colleges (Regulation) Act and Rules do not empower the third respondent with any such power to direct the private minority

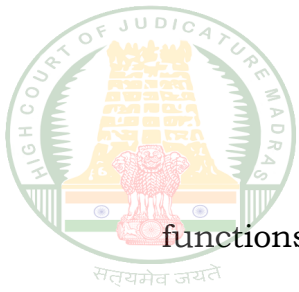


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educational institution to prescribe any percentage of admission. He further insisted that the admission of students being one of the most important facets of the right of administration guaranteed to the minorities under Article 30 of the Constitution of India, the third respondent lacks authority to impose such conditions abrogating or abridging the said fundamental rights. Categorically condemning that the third respondent is trying to enforce what is not contemplated under any Statute, he pressed for quashing the impugned proceedings.

8.Heard the learned Senior Counsel for the petitioner, the learned Government Advocate for the respondents and carefully perused the materials available on record.

9.Now, the point to be decided is as to whether the third respondent, that is, the Tamil Nadu State Minorities Commission is empowered and entitled to seek for the details of the admission of students made in minority educational institutions and whether the impugned proceedings have been issued without jurisdiction. The Tamil Nadu State Minorities Commission Act, 2010, is an Act to constitute a State Commission for minorities and to provide for matters connected there with or incidental thereto and the same received the assent of the Governor on 26.05.2010. The Tamil Nadu State Minorities Commission has been constituted by the Notification of the State Government to exercise the powers conferred on and to perform the



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functions assigned to it under the Tamil Nadu State Minorities Commission Act, 2010. Chapter 3 of the aforesaid Act envisages the functions of the Commission and the same is further elaborated under Section 8 of the said Act and the same is extracted as follows:-

“8.(1) Subject to the performance of the functions of the National Commission for Minorities under section 9 of the National Commission for Minorities Act, 1992, the functions of the Commission shall be as follows:—

(a) to examine the working of various safeguards provided in the Constitution and in the laws made by the State Legislature for the protection of minorities;

(b) to make recommendations with a view to ensuring effective implementation and enforcement of all the safeguards;

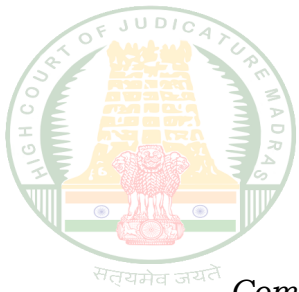
(c) to monitor the working of the safeguards provided in the Constitution, laws enacted by the State Legislature and policies and schemes of the Government for minorities;

(d) to conduct studies, research and analysis on the questions of avoidance of discriminations against minorities;

(e) to make a factual assessment of the representation on minorities in the services of the Government undertakings, Government and quasi-Government bodies and in case the representation is inadequate, to suggest ways and means to achieve the desired level;

(f) to make recommendations for ensuring, maintaining and promoting communal harmony in the State;

(g) to make periodical reports at prescribed intervals to the Government;



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(h) to study any other matter which in the opinion of the Commission is important from the point of view of the welfare and development of minorities and to make appropriate recommendation;

(i) to consider the grievances of the minorities and to suggest appropriate solution, from time to time;

(j) to look into specific complaints regarding deprivation of rights and safeguards of minorities and take up such matter with the appropriate authorities; and

(k) any other matter which may be referred to it by the Government.”

10.The powers of the Commission is further elaborated in Section 8(2) of the Act, 2010 and the same is extracted as follows:-

“8.(2) The Commission shall, while performing any of these functions, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

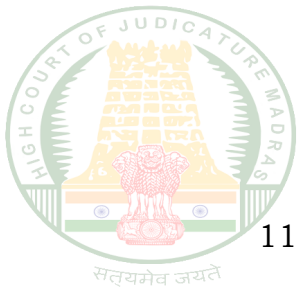
(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.”



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11. On exercising the powers conferred under Section 8(2) of the Tamil Nadu State Minorities Commission Act, 2010, for the purpose of performing the functions envisaged under Section 8(1) of the said Act, the Commission shall make recommendations to the Government to be laid before the Legislative Assembly along with the memorandum of explaining the action taken or proposed to be taken on the recommendations. On receipt of the same, the Government may accept the said recommendations or reject the same, in such case should reject within reasons for non acceptance of any of such recommendations.

12. A careful perusal of the functions enumerated under Section 8(1) of the said Act would make it clear that the powers conferred on the State Minority Commission is to function in such a way as to safeguard the communal harmony in the State by monitoring the working of the safeguards provided in the Constitution, Laws enacted by the State Legislature and Policies and Schemes of the Government for minorities. More particularly, the Commission should work towards avoiding discrimination against minorities. However, by means of the impugned proceedings, the third respondent, Member Secretary of the Tamil Nadu State Minorities Commission has required the writ petitioners, who are minority educational institutions to produce the complete student admission details for three academic years from 2016-2017 to 2018-2019 to verify whether the guidelines pertaining to the minority institutions as far as



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adoption of Rule for Reservation of seats has been complied with. Article 15(5) of the Constitution of India is extracted as follows:-

“15(5).Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.”

13.The 93rd amendment to the Constitution of India, which was brought into force with effect from 21.02.2006, makes it clear that the State shall make special provision by Law for the advancement of socially and educationally backward classes of citizens or scheduled caste or scheduled tribes pertaining to their admission to educational institutions other than the minority educational institutions. The minority educational institutions referred to in Class 1 of Article 30 are clearly excluded from the purview of Article 15(5).

14.In view of the same, the State Minority Commission, which is empowered to function to safeguard the rights and privileges of the minority institutions do not have any *locus standi* to call for the records from the minority educational institutions to verify the adoption of Rule for



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Reservation of seats in Minority Educational Institutions, which is clearly excluded under Article 15(5) of the Constitution of India, in violation to the functions enumerated under Section 8 of the Tamil Nadu State Minorities Commission Act, 2010.

15. Accordingly, the impugned letters of the third respondent will not stand the scrutiny of law and the same are hereby set aside and the Writ Petitions are allowed. There shall be no order as to Costs. Consequently, connected miscellaneous petitions are closed.

12.02.2025

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

To

1. The Secretary,
State of Tamil Nadu,
Department of Higher Education,
Fort St. George, Chennai - 600 009.
2. The Director of Collegiate Education,
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3. The State Minority Commission,
Rep. By its Member Secretary,
735, Anna Salai, L.L.A. Building,
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L.VICTORIA GOWRI, J.

Mrn

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