

W.A.Nos.2558, 2595, 2597, 2629, 2639, 2640, 2644, 2661, 2740, 2741, 2742, 2753, 2760, 2761, 2764, 2842, 2831 of 2022 and 11, 40, 43, 82, 161, 189, 195, 197, 266, 284, 298, 307, 340, 372, 380, 433, 444, 466, 544, 558, 637 and 770 of 2023

**R. MAHADEVAN, J.**

**AND**

**MOHAMMED SHAFFIQ, J.**

(Order of the court was made by R.Mahadevan, J.)

1. At the outset, two issues arise for consideration in the present writ appeals. The first would be on the *locus standi* of the 7 writ petitioners at whose first instance, the 254 appointments to the post of Assistant Professor in different Faculties were challenged, and which ultimately culminated in the quashing of these appointments by the Learned Single Judge, which in turn have given rise to the present writ appeals.

2. The appellants herein have all been appointed in various departments and faculties in the institutions run by the Pachaiyappa's Trust. Their contention in unison has been that the writ petitions are not maintainable as the writ petitioners lacked *locus standi* to question their appointments when they themselves had participated in the selection process and that, on their not being appointed, they had turned around and challenged the selection and appointments of the appellants. That

apart, the writ petitioners were concerned only with appointments in their respective areas/Departments, i.e. in Tamil, Economics, and Commerce. While that being the main contention of the appellants on the maintainability of the writ petitions, viewed from the angle of the lack of *locus standi* of the writ petitioners, several other technical objections have also been made to substantiate their plea that the writ petitioners do not have a legal right to question the appointments of the appellants. On a perusal of the factual background of the case as well as the documents and papers placed before us, it cannot be denied that serious irregularities have been taking place in the various appointments made to the teaching faculties to the various colleges and institutions of the Trust. While some of the persons appointed may be well-qualified, it can easily be said that most appointments made pursuant to the two recruitment notifications, have been mired in controversy. It may also be placed on record that inspite of two Reports made by the Administrator (dated 30.7.2020) as well as the Director of Collegiate Education (dated 15.11.2022), clarity and consensus still eludes us, and several rival and competing claims and contentions have been made by the parties. This Court, in such view of the matter, cannot shut its eyes to the glaring illegalities, allegations and irregularities that have brought the institutions of the Trust, ignominy, to

say the least. It has also resulted in disillusionment and lack of trust in the method of selection, in public employment. This Court is, thus of the view that the writ petitions cannot be thrown out on hyper technical grounds of maintainability and *locus standi*. The writ petitioners have proved that they are aggrieved by their non-selection and that singular factor is, in the present case, enough to maintain these writ petitions, especially since they have made specific allegations of illegalities in the selection and appointment.

3. Having held that the writ petitions are maintainable, the next question would be, whether a decision is capable of being arrived at on the basis of the available Reports in view of the specific submissions on the correctness or otherwise of the two Reports, viz. of the Administrator and that of the Director of Collegiate Education. While it is our view that all illegal appointments i.e. appointments of persons/candidates not possessing the requisite eligibility criteria, are to be struck down without a second thought, being against the doctrine of equality embodied in Article 14 and the fundamental right to equality of opportunity in public employment under Article 16 of the Constitution, it is equally important to have in mind the interests of the qualified candidates, who have

already worked for more than eight years and whose right to public employment cannot also be interfered with unnecessarily for no fault on their part. Keeping in mind the principle that unequals cannot be treated equally, and that, those who were qualified, cannot be dealt with in the same manner as unqualified candidates appointed illegally without possessing necessary qualifications, this Court is not in favour of omnibus quashing of all appointments, as that would be painting everyone with the same brush, which, in the circumstances stated above, would not stand scrutiny before law and would amount to gross injustice and offend the equality doctrine.

4. While the appeals were heard at length over a period of many days on all issues touching on the core merits of the case, with the only idea of disposing of the appeals finally, it has come to light that the facts disputed, which have a direct bearing on the rights of the parties, are many in number and the issue is now incapable of being resolved on the basis of the materials and particulars available on record. Thus, we are inclined to appoint a Retired High Court Judge along with an experienced educationalist to assist him, to act as a fact finding body. We have noticed and found that, with due respect to the two reports already

placed on record, and especially in the light of the specific allegation of discrepancies in the two reports, this Court cannot pass a final judgment in these appeals based solely on either or both of the reports. In that view of the matter, we find it necessary that the entire exercise be re-done in the form and manner as mentioned hereinbelow by the Committee to be constituted as under:

i. This Court constitutes a two member Committee comprising of the Hon'ble Mr.Justice B.Gokuldas (Retired), High Court of Madras, residence at No.11, Kuppusamy Pillai Street, Jesupadam Nagar, Guduvancherry, Chengalpattu Taluk, Kancheepuram District - 602 203, Mobile No.94434 91924 as Chairman and Dr. (Mrs.) D. Freeda Gnana Rani, Ex.Principal of Quaid-e-Millath Government College for Women, residence at No.4/461, Balaji Nagar 4th Street, Santhosapuram, Chennai 600 073, Mobile No.94434 79940, Chennai, as Member to render her expert assistance to the former, to make a detailed report on the appointments of 254 candidates to the post of Assistant Professors in the institutions of the Pachaiyappa's Trust pursuant to the recruitment notifications dated 12.12.2013 and 18.02.2014.

ii. The Committee shall look into the requisite qualifications and eligibility criteria as prescribed under the recruitment notifications

under which the appointments have been made, look into the respective qualifications and other eligibility criteria of every appointee, and go on to state if the appointee is eligible to be appointed or not.

iii. The committee will not be obliged to issue individual notices to the appointees as they are also represented by counsels here and who shall communicate this order to their respective clients.

iv. The committee shall begin functioning from 07.08.2023. All further documents and other clarificatory details can be produced by the respective appointees to the committee on or before 19.08.2023 in person during office hours-10.00 am to 5 p.m. The Director of Collegiate Education, may also produce the required details, if any, in this regard.

v. The names of the candidates be arrayed alphabetically and the candidates from S.Nos.1-85 shall appear before the Committee starting from 21.08.2023-26.08.2023, viz. S.Nos.1-15 on day 1, S.Nos. 16-30 on day 2, so and so forth; S.Nos.86-170 from 29.08.2023-02.09.2023, S.Nos. 171-254 from 04.09.2023-09.09.2023.

vi. The Committee shall scrutinise all documents, and after considering all details as submitted by the parties, to state the eligibility of otherwise of the 254 candidates/appellants and submit its sealed cover report confidentially to this Court on or before 27.09.2023.

vii. The Committee is hereby directed to do the entire exercise afresh on independent application of mind, and not be guided by either of the two Reports, viz. of the Interim Administrator dated 30.7.2020 and that of the Director of Collegiate Education dated 15.11.2022, submitted to this Court. The Committee shall at liberty to approach this court, as and when required.

viii. The committee shall function at Pachaiyappa's Trust Board, at the premises of the Pachaiyappa's College Campus, Poonamallee High Road, Shenoy Nagar, Chennai- 600 030 and shall be paid remuneration of Rs.2,00,000/- per month to the Chairman and Rs.1,00,000/- to the Member, starting from 01.08.2023 until the disposal of the writ appeals.

ix. The Management of the Pachaiyappa's Trust Board shall provide all facilities, such as, accommodation, infrastructure, transportation, etc., apart from remuneration, to the Committee now appointed by this court.

Post these matters for passing final orders on 29.09.2023.

**[R.M.D,J.]**

**[M.S.Q, J.]**

**31.07.2023**

**R. MAHADEVAN, J.**  
**AND**  
**MOHAMMED SHAFFIQ, J.**

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**WA.No.2558 of 2022 etc. batch**

**31.07.2023**