

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

W.A.No. 1518 of 2013 () IN WP(C).3879/2012

AGAINST THE JUDGMENT IN W.P.(C) NO.3879/2012 of HIGH COURT OF KERALA DATED
12-09-2013.

APPELLANT(S)/PETITIONER:

DR. ARUNA.P.K., AGED 51 YEARS,
ASSOCIATE PROFESSOR, DEPARTMENT OF EDUCATION,
UNIVERSITY OF CALICUT, THENHIPALAM, MALAPPURAM.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENT(S)/RESPONDENTS:

1. UNIVERSITY OF CALICUT
REPRESENTED BY ITS REGISTRAR, THENHIPALAM,
MALAPPURAM - 673 635.
2. THE VICE CHANCELLOR,
UNIVERSITY OF CALICUT, THENHIPALAM,
MALAPPURAM - 673 635.
3. THE SELECTION COMMITTEE
CONSTITUTED FOR SELECTION TO THE POST OF
PROFESSOR IN THE DEPARTMENT OF EDUCATION,
REPRESENTED BY ITS CHAIRMAN,
VICE CHANCELLOR - 673 635.
4. YESODHARAN,
PROFESSOR AND HEAD OF DEPARTMENT OF EDUCATION,
UNIVERSITY OF MYSORE, KARNATAKA.- 570 001.
5. R.SUKUMARAN NAIR,
RETIRED PROFESSOR AND HEAD OF DEPARTMENT,
UNIVERSITY OF CALICUT, THENHIPALAM,
MALAPPURAM - 673 635.

6. DR. KELU,
CO-ORDINATING DIRECTOR OF B.ED. COURSES,
DEPARTMENT OF EDUCATION, UNIVERSITY OF CALICUT
THENHIPALAM, MALAPPURAM - 673 635.
7. ZIRAJ,
ASSOCIATE PROFESSOR, FEROK COLLEGE,
KOZHIKODE - 673 001.
8. DR. BINDU C.M.
SELECTION GRADE LECTURER, FEROK TRAINING COLLEGE,
KOZHIKODE - 673 001.

R1 TO R6 BY SRI.SANTHOSH MATHEW, SC, CALICUT UNIVERSITY
R8 BY ADVS. DR.K.P.SATHEESAN (SR.)
SRI.ANOOP.V.NAIR
SRI.T.S.ROY
SRI.K.RAGHU VARMA
SRI.JINS N.SOMARAJ
SRI.M.RIAZ
SRI.R.R.SAJEESH
SRI.MATHEW THOMAS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03-07-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A.No.1518 of 2013

Dated this the 3rd day of July, 2015

JUDGMENT

Antony Dominic, J.

The petitioner in W.P.(C) No.3879 of 2012 has filed this appeal, challenging the judgment of the learned Single Judge dismissing the writ petition.

2. We heard the learned counsel for the appellant, learned Standing Counsel for Respondents Nos.1 to 3 and also the learned counsel for the party Respondents.

3. The issue raised in the writ petition was mainly regarding the eligibility of the 8th Respondent to be considered for the post of Professor in Education, which was reserved for candidates of Scheduled Caste category. According to the appellant, in view of the contents of Ext.P10 report, the 8th Respondent did not satisfy the qualifications specified for the above post and therefore consideration of her candidature by the Selection Committee is illegal. It is in that background, the writ petition was filed with a prayer mainly to declare that

8th Respondent was ineligible for the post notified.

4. Ext.P1 is the notification issued by the University inviting applications for the posts mentioned therein. The post of Professor (Education) was one of the posts notified and it was reserved to be filled up from among the candidates belonging to Scheduled Caste category. The qualifications prescribed for the post of Professor are the following:

"(i) A first or second class Master's degree in the subject concerned of this University or an equivalent degree from an Indian/Foreign University recognized as equivalent thereto by the University.

(ii) Good academic record with published work of high quality, actively engaged in research.

(iii) 10 years of experience in postgraduate teaching and / or experience in research at the University/National level institutions approved by the U.G.C.

(iv) Experience of guiding research at Doctoral level.

Note: In exceptional cases, teachers with 15 years of UG teaching experience/research experience would also be considered."

5. The contention raised by the appellant is that a Research student, whose Guide was the 8th Respondent's deceased husband, had made a complaint to the University that the publication made by 8th Respondent and her husband

in the 'Educational Research Information Centre Website' was substantially copied from her Research work. It is stated that on the basis of the complaint, the Syndicate resolved to conduct an enquiry into the allegations. Accordingly, the Convenor of the Standing Committee on Staff conducted an enquiry in which the evidence of the complainant, the deceased husband of the 8th Respondent and the 8th Respondent were recorded. Ext.P10 is the enquiry report submitted, in which, the following findings and recommendations were made:

"1. It is proved beyond doubt the lines appeared in the ERIC Website and the lines appear in the dissertations of Smt. Sreevidya S. Marar are identical. In pages 25 to 29 in the material evidence produced by Smt. Sreevidya S. Marar corroborates the fact that Dr. Sudheesh Kumar and Dr. Bindu have copied the research work of Smt. Sreevidya S. Marar.

2. Two tables used by Smt. Sreevidya S. Marar have been used by Dr. Sudheesh Kumar and Dr. Bindu as evidenced in pages 4 and 5 of ERIC Website under heading "How effective self science curriculum is?".

3. The statistical techniques used and the sample selected, methodology used and the tools used for the study are the same. The only difference is in the area selected for the study and the subjects chosen. In Smt. Sreevidya's study Biology of Std.IX and in the joint study by Dr. Sudheesh Kumar and Dr. Bindu Malayalam of Standard IX were chosen for the study.

4. *The withdrawal of the disputed material from the Website of the ERIC by Dr. Sudheesh Kumar and Dr. Bindu is a clear indication that the joint authors have admitted their guilt. The allegation raised by anybody against the bonafide research work done by the investigators will in no way infringe their legitimate right to own the same. So the removal of the article from the ERIC Website casts aspersion.*

5. *The enquiry reveals that the supervising teacher has underlined in red ink the corrections effected in the dissertation and this is a clear indication that the supervising teacher, Dr. Sudheesh Kumar had intention to harass the investigator.*

Recommendations:

In the light of the above findings it can be concluded that this case is a clear one of plagiarism and copying the research work of Smt. Sreevidya S. Marar by Dr. Sudheesh Kumar and Dr. Bindu and hence it is recommended that appropriate action be initiated against Dr. Sudheesh Kumar and Dr. Bindu as per existing rules. This action will help to prevent the attempt of Plagiarism and copying of bonafide research work done at the University level in future."

6. According to the appellant, in view of the aforesaid findings and recommendations of the enquiry conducted against 8th Respondent and her husband, the 8th Respondent cannot be said to satisfy the requirement of having good academic record with published work of high quality, actively engaged in research, one of the qualifications prescribed for the post. In the judgment under appeal, the learned Single Judge rejected this contention of the appellant on the basis

that the University did not take any further action against 8th Respondent on the basis of Ext.P10 and that therefore, the report cannot be relied on against her.

7. Having heard the submissions made by both sides and also gone through Ext.P10 report, we are of the view that, irrespective of whether any further action was taken by the University on Ext.P10 or not, so long as Ext.P10 is available with the University, when the qualifications and suitability of 8th Respondent is determined, the University is bound to consider Ext.P10 also. We are told that the appellant and the 8th Respondent were the only candidates for the post in question. It is also the admitted position that in view of the orders passed by this Court, the matter is still kept pending and the Syndicate is yet to consider the minutes of the Selection Committee for according its approval. In such circumstances, we feel that the grievance of the appellant would stand redressed if the Syndicate takes into account Ext.P10 also when the minutes of the Selection Committee is placed before it for its approval.

8. In view of the above, vacating the findings in the judgment under appeal, the writ appeal is disposed of directing

that when the minutes of the Selection Committee is placed for its approval, the Syndicate shall consider Ext.P10 report also while assessing the qualifications and suitability of 8th Respondent for the post of Professor in Education, notified in Ext.P1 notification.

9. It is clarified that the other contentions raised by the parties are left open.

The appeal is disposed of as above.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-