

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30868 of 2015
and
M.P.Nos.1 & 2 of 2015

Dr.C.R.Gladys Leema Rose

.. Petitioner

- Vs -

1. Bharathiyar University,
rep. by The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.

2. The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent in connection with the order passed by him in his proceedings in VC/BU/2015 dated 30.08.2015 and quash the same and direct the respondent to regularise the period of suspension.

For Petitioner : Mr.Jagadeesan.V.S.

For Respondents : Mr.STS.Moorthy

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that she was selected and appointed to the post of Controller of Examinations, Bharathiar University with effect from 13.04.2015. Prior to the said appointment, she served as Professor and then promoted to the post of Principal in Annai Velankanni College, Tholayavattam, Nagercoil, Kanyakumari District from 1987 to 2012 and later she had served as Principal in Cheran College for Women, Tiruppur from 2012 to 2015 and she has rendered sincere and unblemished service to the satisfaction of all. It is further stated by the petitioner that on 01.08.2015, an old paper merchant came to her office and told that on instructions from the Registrar, he has to remove the cardboard boxes and

other paper trash. The petitioner has also sought instructions from the Registrar who told her that it was a standard procedure and she instructed a temporary employee in the Controller of Examinations Section to give the unused cardboard boxes and other paper trash and also issued gate pass for the vehicle to carry out the trash paper on the assurance from one Mr.S.Angannan, Assistant, Examinations Section, who said that the Registrar has orally instructed for issuance of the pass. Accordingly, the papers were taken out. It is also stated by the petitioner that on 27.08.2015 at about 3.00 p.m. she received a call from the P.A. to the Registrar calling upon her to attend an enquiry with regard to the disposal of old answer papers and accordingly she attended the meeting and offered her explanation but to her shock and surprise, she was placed under suspension by the impugned order dated 30.08.2015. Challenging the legality of the same, the petitioner has come forward to file this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned order and would submit that power of suspension has to be exercised by the Vice Chancellor as per provisions under Statute 14(3)(7) of Chapter XVIII of Bharathiar University Vol.II. The learned counsel would further invite the attention of this Court to Statute 14, which deals with Discipline and Control and Sub-Rule 3 which speaks about the procedure to be followed by the Disciplinary Authorities. As per the said Sub-Rule, the authorities competent to impose penalties/and punishments and the appellate authorities and appeal time are indicated in Appendix II. Any appeal to the Syndicate should be addressed to the Registrar, who is the ex-officio Secretary of the Syndicate and as per Appendix II in respect of the post of Controller of Examination is concerned, minor punishment can be imposed by the Vice Chancellor and the Appellate Authority is the syndicate and so far as major punishment is concerned, the Authority empowered is the Syndicate and the Appellate Authority is the Chancellor and in so far as the invocation of Section 13(4) is concerned, it is submitted by the learned counsel appearing for the petitioner that proviso to Section 13(4)(a) states that no such order shall be passed unless the person likely to be affected, has been given a reasonable opportunity of being heard and since it has not been made clear in the impugned proceedings whether the petitioner will be proceeded with imposition of any major punishment or minor punishment and also the relevant provision available to the Vice Chancellor is Section 13(4)(a), which also contemplates that reasonable opportunity of being heard should be given before passing any order and admittedly before passing the impugned order of suspension, the petitioner has not been afforded with any opportunity and hence prays for quashing of the said order.

4. Per contra Mr.STS.Moorthy, learned standing counsel appearing for the respondents would submit that since irregularities have been found in the disposal of the examination answer papers, enquiry was conducted and the petitioner was afforded with reasonable opportunity and thereafter only, fair and proper decision has been taken placing the petitioner under suspension and if the petitioner wants review/revoke the order of

suspension, she has to make fresh representation apart from the representation already submitted by her dated 18.09.2015 and appropriate orders will be passed on the said representation.

5. This Court has carefully considered the rival submissions and perused the materials placed before it.

6. As rightly contended by the learned counsel appearing for the petitioner, the impugned order is not clear as to whether the Disciplinary Authority has proceeded the case for imposition of major or minor punishment and it is also relevant to extract Section 13(4) (a) which reads as follows:

"13. Powers and duties of the Vice-Chancellor:

(1) ***

(2) ***

(3) ***

(4) (a) The Vice Chancellor shall have power to take action on any matter and shall by order take such action as he may deem necessary but shall, as soon as may be, thereafter report the action taken to the officer or authority or body who or which would have ordinarily dealt with the matter; provided that no such order shall be passed unless the person likely to be affected, has been given a reasonable opportunity of being heard; (emphasis added)

7. A perusal of the impugned order would disclose that the Vice Chancellor of the first respondent University has not properly followed Section 13(4) (a) to pass the impugned order of suspension and in the light of the proviso, an opportunity of being heard should be afforded to the petitioner before passing the said order and admittedly it has not been done so and hence on this sole ground, the impugned order warrants interference.

8. In the result, the writ petition is partly allowed and the impugned order dated 30.08.2015, is set aside and the respondents are directed to reinstate the petitioner forthwith into service and thereafter it is open to them to proceed against the petitioner strictly in accordance with the Bharathiar University Act, 1981 and Statutes framed thereunder. Consequently, the connected miscellaneous petitions are closed. No costs.

-Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kk

To

The Vice Chancellor,
Bharathiyar University,
Coimbatore - 641 046.

+1 CC to MR.V.S.Jagadeesan Advocate. Sr.No.53917

+1 CC to MR.S.T.S.Murthi Advocate. Sr.No.54154

W.P.No.30868 of 2015
and M.P.Nos.1 & 2 of 2015

CO-PA
JD(08/10/2015)



WEB COPY