

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.34650 of 2013

J.Jeyakumaran .. Petitioner

-vs-

- 1.The Chancellor
Universities in Tamil Nadu
Raj Bhavan, Chennai-25.
- 2.State of Tamil Nadu
Rep. by its Secretary,
Department of Law,
Fort St. George, Chennai-9.
- 3.The Director,
Department of Legal Studies,
Purasawalkam, Chennai.
- 4.The Registrar,
The Tamil Nadu Dr.Ambedkar Law
University, 'Poompozhi', No.5,
Dr.D.G.S.Dinakaran Salai, Chennai.
- 5.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi.
- 6.The Secretary,
Bar Council of India,
21, Rouse Avenue Institutional Area,
New Delhi.
- 7.The Secretary,
Bar Council of Tamil Nadu,
High Court Campus, Chennai.

8.Dr.P.Vanangamudi
Vice Chancellor
The Tamil Nadu Dr.Ambedkar Law University
No.5 Dr.D.G.S.Dinakaran Salai
Chennai-28

.. Respondents

Petition under Article 226 of the Constitution of India praying for issue of Writ of Quo Warranto, calling upon the 8th respondent to show cause to the court by what authority he holds the post of Vice-Chancellor, The Tamil Nadu Dr.Ambedkar Law University, and consequently remove him from that post.

For Petitioner : Ms.C.Bhargavi
for M/s.R.Prabhakaran

For Respondents : Mr.A.L.Somayaji,
Advocate General
Assisted by Mr.S.T.S.Moorthy,
Govt. Pleader, for RR 1 to 3 & 5
: Mr.R.Thiagarajan, S.C.
For Mr.S.Ramesh Kumar for R8
: Mr.S.R.Rajagopal for R6
: Mr.S.Y.Masood for R7

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

A writ petition under Article 226 of the Constitution of India has been filed for issuance of Writ of Quo Warranto qua the appointment of the 8th respondent as Vice Chancellor of the Tamil Nadu Dr.Ambedkar Law University.

2.The petitioner is an advocate. He is not a competitor for the post. The allegation within the limited domain of a Writ of Quo Warranto is that the 8th respondent is the usurper of the office, as he does not fullfill the requisite qualifications, which are pre-requisites as per the Rules for his appointment. The University is exclusively a Law University established under the Tamil Nadu Dr.Ambedkar Law University Act, 1996 (hereinafter referred to as 'the University Act'). The objective, as apparent from the University Act and submissions of the petitioner, was to impart quality legal education and in that context, the Vice Chancellor is a pivotal person. Such a situation is distinguishable from a multi-discipline University, where the Vice Chancellor can be of any of the disciplines. Thus, what is submitted by the petitioner is that the Vice Chancellor must be possessed of sufficient attributes of law and legal education to make him entitle for appointment to the post.

3. In the aforesaid context, the petitioner submits that the 8th respondent was appointed in the University to a Human and Social Science teaching assignment, being a Professor in Humanities. There are allegations about other activities of the 8th respondent, which appear to arise from some undisclosed personal animus, unsubstantiated and irrelevant for the purpose of issuance of a Writ of Quo Warranto. It is, thus, inter alia, alleged that during his course of teaching, the 8th respondent never made any substantial contribution in law or any course of law.

4. The 8th respondent was originally appointed as a Junior Professor for Pre-Law vide communication dated 19.11.1985, which was deemed to have come into force on 01.06.1984. This was regularised from 12.03.1985. The scale of pay was revised by the University Grants Commission (UGC) with effect from 01.01.1986 and the nomenclature was changed as Lecturer (Senior Scale) (Pre Law) with effect from 01.01.1986. The 8th respondent was, once again, re-designated as Lecturer (Senior Scale) (Pre Law) on 05.12.1988 and was sanctioned career advancement in the selection grade with effect from 12.03.1990 as per UGC guidelines.

5. The 8th respondent pursued a post graduation in law during the teaching assignment and obtained M.L. Degree in Law in December, 1992, from the University of Madras. In view of his acquiring this qualification, from 1994, he started teaching law, a position not disputed by the learned counsel for the petitioner. He obtained his Ph.D. Degree in Law in the year 2009 from the Tamil Nadu Dr. Ambedkar Law University itself.

6. Learned counsel for the petitioner submits that the UGC notification dated 13.06.2013 stipulating the criteria and selection process for appointment of Vice Chancellor of the University would apply and the relevant clause 7.3.0 reads as under:

- i. Persons of the highest level of competence, integrity, morals and institutional commitment are to be appointed as Vice Chancellors. The Vice-Chancellor to be appointed should be a distinguished academician with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organisation.
- ii. The selection of Vice Chancellor should be through proper identification of a panel of 3-5 names by a Search Committee through a public notification or nomination or a talent search process or in combination. The members of the above Search Committee shall be persons of eminence in the sphere of higher education and shall not be connected in any manner with the university concerned or its colleges.

While preparing the panel, the search committee must give proper weightage to academic excellence, exposure to the higher education system in the country and abroad, and adequate experience in academic and administrative governance to be given in writing along with the panel to be submitted to the Visitor/Chancellor. The constitution of the search committee could be as per the Act/Statutes of the concerned university.

- iii. The Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the search committee.
- iv. The conditions of services of the Vice Chancellor shall be as prescribed in the Act/Statutes of the university concerned in conformity with the Principal Regulations.
- v. The term of office of the Vice Chancellor shall form part of the service period of the incumbent concerned making him/her eligible for all service related benefits.'

7. It is submitted by the learned counsel that though the process of appointment of Vice Chancellor began earlier, the actual appointment took place after the notification had come into force and thus, the requirements of the notification would apply, this position not being disputed on behalf of the respondents.

8. In addition, learned counsel for the petitioner submits that Clause 4.1.0 of the said Regulations, dealing with the direct recruitment of the Professor would equally apply, which reads as under:

- A. (i) An eminent scholar with Ph.D. qualification(s) in the concerned/allied/relevant discipline and published work of high quality, actively engaged in research with evidence of published work with a minimum of 10 publications as books and/or research/policy papers.
- (ii) A minimum of ten years of teaching experience in university/college, and/or experience in research at the University/National level institutions/industries, including experience of guiding candidates for research at doctoral level.
- (iii) Contribution to educational innovation, design of new curricula and courses and technology - mediated teaching learning process.
- (iv) A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Appendix III.
- (v) An outstanding professional, with established reputation in the relevant field, who has made

significant contributions to the knowledge in the concerned/allied/relevant discipline, to be substantiated by credentials.

9. Learned counsel for the petitioner submits that the University being one of Law, the Rules of legal education laid down by the Bar Council of India would be applicable, more specifically Rule 16, which reads as under:

'16. Whole time Principal/Head/Dean : There shall be a Principal for each constituent or affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be.'

10. In order to support her submissions, learned counsel relied upon the judgment of the Hon'ble Supreme Court in Bar Council of India vs. Board of Management, Dayanand College of Law and Others, (2007) 2 SCC 202. The Hon'ble Supreme Court held that the Advocates Act, 1961, and the Bar Council of India Rules are essential requirements and a Principal of a Law College must be duly qualified in law, as students intending to pursue legal profession, are passing out of Law College. Thus, the University Act and the University statutes require harmonious construction with the Advocates Act, 1961, and the Bar Council of India Rules. The relevant portion from the judgment is extracted as under:

'12. The first task of a court confronted with a set of parallel provisions relating to the appointment of a Principal of a law college like the one in the amended provision of the statute under the University Act and the Rules made by the Bar Council of India which could ultimately refuse to admit a graduate of law coming out of the university to enrolment as an advocate, which alone would entitle him to practise, is to see whether the provisions could not be reconciled or harmoniously construed so as to achieve the object of both the enactments. Prior to 13-1-1995, there was no conflict between Statute 11.14 and Rule 12 of the Rules of the Bar Council of India. In 1995, in the University statutes, the requirement of the Principal having to be the holder of a doctorate in one of the subjects taught in the college, was done away with. Obviously, such a provision could not be understood as controlling fully professional education like that in Medicine, Engineering or Law. No doubt, the university has not made a distinction in that regard in this context. But obviously, it does not appeal to common sense to say that an engineer could be appointed the Principal of a medical college or a

great physician could be appointed as the Principal of an engineering college. Same is the position regarding the appointment of a doctorate in Science or a doctorate in Philosophy as the Principal of a law college."

11. In a nutshell, the submission of the learned counsel for the petitioner initially was that a person having no expertise in law cannot be appointed as the Vice Chancellor of the Law University. However, in view of the facts already enunciated above, this argument was sought to be modified by a dual argument : (a) that the M.L. Degree was obtained in a part-time course; and (b) even if the 8th respondent possessed the requisite teaching experience and qualification, that would not make a difference as his initial appointment was not to a post of Lecturer of Law.

12. The facts aforesaid, in our view, leave little doubt over the actual teaching experience or the requisite norms to be appointed as Vice Chancellor. For this purpose, the teaching time period spent in subjects not dealing with law has not been counted. Thus, in law-teaching alone, the requisite qualifications have been obtained. In a Writ of Quo Warranto, this Court will not sit as a Selection Committee. Whether the 8th respondent having acquired a post-graduate degree in law on a part-time basis should have weighed against him or not vis-a-vis another candidate was the matter to be decided by the Selection Committee. There is no lack of qualification. We are also unable to appreciate the plea that the 8th respondent having been appointed for teaching initially for a course other than law would be incapacitated for such appointment as Vice Chancellor of the University, even if his subsequent experience in teaching of law and his qualifications make him eligible to do so.

13. At this stage, learned counsel for the petitioner seeks to state that in the pleadings, the petitioner has stated that he is not aware of any teaching experience of law of the 8th respondent. The petitioner obtained information under Right to Information Act on various accounts and it is really surprising that the petitioner can profess lack of knowledge of whether the 8th respondent was teaching law or not. Be that as it may, this is categorically belied by the counter-affidavit filed by the concerned authorities.

14. It cannot be a purpose of the Writ of Quo Warranto to carry out a roving enquiry to find some reason or other to unseat the 8th respondent from his post at the behest of the petitioner. In fact, the petitioner, on our query, we were informed, is not even the alumni of this University and certainly does not have any special interest in this University. We, however, hasten to add that of course, in a writ of Quo Warranto, that may not be really relevant, but this is only to state that the reason why the petitioner has approached this Court by the Writ of Quo Warranto without making

requisite enquiry and by making allegations against the 8th respondent even about his expertise in performance, is a question mark on the motive for the same.

15.It is for all the aforesaid reasons, despite the erudite and skilful arguments of learned counsel for the petitioner, Ms.C.Bhargavi, we are not persuaded to agree with her submissions.

16.We, thus, dismiss the writ petition, but refrain from imposing costs because a young counsel at the Bar has advanced erudite submissions.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

sra

To

- 1.The Chancellor, Universities in Tamil Nadu
Raj Bhavan, Chennai-25.
- 2.The Secretary to Govt.of Tamil Nadu
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- 3.The Director, Department of Legal Studies,
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High Court Campus, Chennai.

1 cc to M/s. S. Rameshkumar, Advocate, Sr. 6794

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