

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.Nos.29091 of 2014 and 1193 of 2015
MP.Nos.1 to 3 of 2014 and 1 and 2 of 2015

Dr.P.Vijayan
WPs

Petitioner in

Vs

- 1.Union of India by Secretary to Government
Ministry of Shipping,4th floor, Parliment House,
New Delhi 110001
- 2.The Indian Maritime University by Registrar,
East Coast Road, Uthandi,
Chennai-119
- 3.The Executive Council, Indian Maritime University,
East Coast Road, Uthandi
by its Vice Chancellor, Chennai-119
- 4.K.Ashok Vardhan Shetty, Vice Chancellor
East Coast Road,Uthandi,
Indian Maritime University, Chennai-119 RR1to4-Both WPs
- 5.Rajeeva Prakash, Director, IMU Cochin Campus
East Coast Road,Uthandi,Wellington 1st Land,
Cochin Port Trunk Road,
Cochin, Kerla.
WP.29091/2015 R5-

Prayer:- These Writ Petitions are filed to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent in Ref.No.IMU/REGR/ 2014, dated 31.10.2014 (Ex.A) and in Ref.No.IMU/HQ/REGR/2014 (Ex.B) dated 31.10.2014 and to quash the same and to direct the Respondents 1 to 4 to restore the Petitioner as Director, Indian Maritime University, Chennai Campus and call for the records in No.IMU REGR/2014 dated 11.11.2014 of the 2nd Respondent and letter dated 23.11.2014 of the 2nd Respondent and to quash the same and to direct the Respondents to restore all facilities, privileges, powers, etc. mentioned in the appeal dated 14.8.2014, respectively.

For Petitioner : Mr.Navaneetha Krishnan, SC
for

for Mr.M.Jothikumar

For Respondent : Mr.Su.Srinivasan, ASG-R1
Mr.R.Krishnamurthy, SC for
Mr.K.R.Tamizhmani-RR2 to 4

ORDER

These Writ Petitions are filed to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent in Ref.No.IMU/REGR/ 2014, dated 31.10.2014 (Ex.A) and in Ref.No.IMU/HQ/REGR/2014 (Ex.B) dated 31.10.2014 and to quash the same and to direct the Respondents 1 to 4 to restore the Petitioner as Director, Indian Maritime University, Chennai Campus and call for the records in No.IMU REGR/2014 dated 11.11.2014 of the 2nd Respondent and letter dated 23.11.2014 of the 2nd Respondent and to quash the same and to direct the Respondents to restore all facilities, privileges, powers, etc. mentioned in the appeal dated 4.8.2014, respectively.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. After elaborate arguments by the learned counsel on either side, the only crux of the case is that whether the impugned suspension could be allowed to continue beyond the period of three months without there being a review or revision.

4. According to the Petitioner, though he was suspended way back in the year 2014, no review was done so far and he has been on prolonged suspension for more than two years. He would rely on the decision of the Honourable Supreme Court reported in 2015 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India) for the proposition that the prolonged suspension without a review cannot be allowed to continue beyond a period of three months and therefore, the Petitioner is entitled to be reinstated by quashing the impugned order of suspension.

5. On the other hand, the learned senior counsel for the Respondents has categorically pointed out that there were two reviews held on 26.6.2015 and 23.12.2015, but however, he has fairly submitted that the outcome of the said two reviews was not directly communicated to the Petitioner and it has only been referred to in the counter affidavit.

6. Admittedly, the Petitioner is on prolonged suspension for more than two years. Further, the outcome of the two reviews has not been communicated to the Petitioner, except stating so in the counter. That being so and without going into the merits of the case, one thing is certain that the authority has to definitely review as to whether the suspension could be allowed to continue beyond the period of three months. Even assuming that the second review was done on 23.12.2015, even then it had expired in the month of March 2016 and thereafter, no review has taken place.

7. As per the decision of the Honourable Supreme Court reported in 2015 7 SCC 291 cited supra, even the pendency of a criminal case is not a bar to review the suspension when there is prolonged delay. In the case on

hand, the Petitioner has been suspended from 2014. Therefore, the 3rd Respondent is directed to convene a meeting and pass appropriate orders, within 30 days from the date of receipt of a copy of this order, in the light of the above decision of the Honourable Supreme Court reported in 2015 7 SCC 291 and taking into consideration the fact that he has been under prolonged suspension from 2014 and the preposition that mere pendency of a criminal proceedings, departmental proceedings cannot be held in abeyance.

8. In so far as the other prayer for restoration of facilities is concerned, the Petitioner is entitled to all the emoluments as contemplated under law. This court is not expressing any opinion on the plea that the Petitioner is not an employee of the Respondent University and it is for the Petitioner to challenge the same in a manner known to law.

9. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected MPs are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To:

1.Union of India by Secretary to Government, Ministry of Shipping, 4th floor, No.1 Parliment House, New Delhi 110001.

2.The Registrar,
Indian Maritime University, East Coast Road,
Uthandi.

3.The Vice Chancellor,
the Executive Council, Indian Maritime University,
East Coast Road, Uthandi, Chennai-119.

+1 cc to M/s.M.Jothi kumar,advocate,sr.47692

+1 cc to Mr.A.Murugesan,CGSC,sr.47985

+1 cc to M/s.K.R.Thamizhmani,advocate,sr.47600

+1 cc to M/s.Su.srinivasan,advocate,sr.47711.

ssk(co)
krd 19/9

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