

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **22.08.2016**

CORAM:

**THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN**

**W.A.Nos.1917 to 1919 of 2013
and M.P.No.1 of 2014 (3 Nos)**

W.P.No.1917 of 2013

1. The Chairman & Board of Governors,
Indian Institute of Technology, Madras,
Chennai - 600 036.
 2. Director
Indian Institute of Technology, Madras,
Chennai - 600 036.
 3. The Registrar
Indian Institute of Technology, Madras,
Chennai - 600 036.
- Appellants

Vs.

1. Dr.W.B.Vasanth
 2. Dr.S.N.Majhi
 3. Dr.S.A.Choudam
 4. Dr.S.G.Kamath
 5. Dr.A.Rangan
 6. Dr.N.V.C.Swamy
- Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against
the order of this Court, dated 25.07.2013 made in W.P.No.4256 of
1997.

W.P.No.1918 of 2013

1. The Chairman & Board of Governors,
Indian Institute of Technology, Madras,
Chennai - 600 036.
2. Director
Indian Institute of Technology, Madras,
Chennai - 600 036.
3. The Registrar
Indian Institute of Technology, Madras,
Chennai - 600 036.

.... Appellants

Vs.

1. Dr.W.B.Vasantha
2. Dr.S.N.Majhi
3. Dr.N.Sivaprasad
4. Dr.S.Kumaraswamy
5. Dr.S.Balabaskaran
6. Dr.N.Singa Perumal
7. Dr.Y.G.Srinivasa

.... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court, dated 25.07.2013 made in W.P.No.4257 of 1997.

W.P.No.1919 of 2013

1. The Chairman & Board of Governors,
Indian Institute of Technology, Madras,
Chennai - 600 036.
2. Director
Indian Institute of Technology, Madras,
Chennai - 600 036.
3. The Registrar
Indian Institute of Technology, Madras,
Chennai - 600 036.

.... Appellants

Vs.

1. Dr.W.B.Vasantha
2. Dr.A.Avudainayagam

.... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court, dated 25.07.2013 made in W.P.No.3249 of 2000.

For Appellants : Mr.Vijay Narayanan, Senior counsel
for Mr.Karthick Mukundan
in all Writ Appeals
and R1 to R3 in M.P.No.1 of 2014
in W.A.Nos.1917 to 1919 of 2013

For Respondents : Mr.R.Muthukumaraswamy
Senior counsel
for Mr.R.Natarajan for R1 in all WAs
and for R4 in M.P.No.1 of 2014
in W.A.Nos.1917 to 1919 of 2013

No appearance for R2 to R6 in
W.A.No.1917 of 2013

No appearance for R2 to R7 in
W.A.No.1917 of 2013

No appearance for R2 in
W.A.No.1919 of 2013

Mr.K.Srinivasan, Spl Public Prosecutor
for CBI
for petitioner in M.P.No.1 of 2014
in W.A.Nos.1917 to 1919 of 2014

COMMON JUDGMENT

(Judgement of the Court was delivered by
P.KALAIYARASAN, J)

These writ appeals are directed against the common order passed by the learned single Judge in W.P.Nos.4256 of 1997 and 4257 of 1997 and W.P.No.3249 of 2000 on 25.07.2013.

2. The first respondent herein as petitioner in all the writ petitions filed writ petitions, seeking writ in the nature of certiorari and mandamus (i) regarding non-selection to the post of Associate Professor, pursuant to the advertisement dated 06.01.1995; (ii) regarding non-selection to the post of Professor, pursuant to the advertisement, dated 29.06.1996; and (iii) for disbursement of salary and other emoluments as Associate Professor w.e.f 18.12.1996 against the Indian Institute of Technology and the selectees. The learned single Judge allowed the writ petitions. Aggrieved by the order of the learned single Judge, the Institution has preferred these writ appeals.

3. The brief facts of the case leading to the filing of these intra-court appeals are :

(i) The first respondent / writ petitioner was appointed as Lecturer in Mathematics on 19.08.1988 in Indian Institute of Technology, Madras (herein after referred to as "appellant institute"). The post of Lecturer was re-designated as Assistant Professor from 08.02.1992.

(ii) The appellant institute issued advertisement inviting

applications from exceptionally qualified persons for the appointment to the post of Associate Professor in various disciplines on 06.01.1995. The first respondent / writ petitioner was fully qualified for the post of Associate Professor in Mathematics Department and along with others, she applied for the post. Interview was conducted by the selection committee and respondents 3 to 5 were selected. However, the first respondent / writ petitioner was not selected. Challenging the said non-selection of the petitioner, the petitioner filed the writ petition in W.P.No.4256 of 1997.

(iii) The writ petitioner mainly took 3 grounds; that the selection committee was not in consonance with the Indian Institute of Technology Statutes; that the selection was made not in terms with the advertisement, wherein one candidate who was having ancillary mathematical physics was selected and another person with less than first class in the preceding degree was selected.

(iv) The appellant institute issued another advertisement on 29.06.1996 for filling up the post of Professor and Associate Professor in various disciplines. The first respondent / writ petitioner having fully qualified, as per the advertisement applied for the post

of Professor in the Department of Mathematics. The Selection Committee held interview on 28.10.1996 for the post of Professor. But the petitioner was not selected for the post of Professor and on the other hand, the selection committee selected the first respondent / petitioner for the post of Associate Professor . In that interview none of the candidates were found suitable for appointment as Professor. The appointment order for the post of Associate Professor for the first respondent was issued on 18.12.1996 and she was requested to convey her acceptance and submit her joining report. The first respondent / writ petitioner submitted her acceptance on 06.01.1997 for the offer of appointment to the post of Associate Professor, without prejudice to her rights to challenge her non-selection for the post of Professor.

(v) The appellant institute sent a letter on 20.03.1997 to the first respondent / writ petitioner that the conditional acceptance of the appointment was not acceptable. But according to the first respondent / writ petitioner, she has been working as Associate Professor from 06.01.1997, the date on which she gave the joining report.

(vi) The first respondent / writ petitioner also filed writ

petition in W.P.No.4257 of 1997 challenging her non-selection for the post of Professor, pursuant to the advertisement dated 29.06.1996. This Court, by order, dated 27.03.1997 granted interim injunction restraining the appellant institute from terminating the services of the first respondent / writ petitioner from the post of Associate Professor pending disposal of the writ petition.

(vii) The first respondent / writ petitioner was not paid the pay and allowances and other perks for the post of Associate Professor from 18.12.1996. Hence, the first respondent / writ petitioner filed W.P.No.3249 of 2000 for a writ of mandamus to direct the appellant institute to pay her the arrears, being the difference in salary, allowance and perks between Associate Professor and Assistant Professor.

4. The learned single Judge, after considering the divergent contentions of either side, passed a common order allowing the writ petitions filed by the first respondent / writ petitioner.

5. Since all these writ appeals are against the common order of the learned single Judge and issues involved in all these

writ appeals are common, all these writ appeals are disposed of by passing a common order.

6. We have heard the learned senior counsel on either side and also perused the records carefully.

7. There is no dispute that the first respondent / writ petitioner applied for the post of Associate Professor pursuant to the advertisement of the appellant institute, dated 06.01.1995 and she participated in the interview along with others and she was not selected. Similarly, she applied for the post of Professor, pursuant to the advertisement dated 29.06.1996 of the appellant institute and though she was not selected for the post of Professor, she was appointed as Associate Professor. She gave her joining report on 06.01.1997 and started functioning as Associate Professor in the Department of Mathematics, Indian Institute of Technology, Madras. But on 20.03.1997, the appellant institute informed the first respondent / writ petitioner that conditional joining report is not acceptable. The first respondent / writ petitioner obtained an order of interim injunction in W.P.No.4257 of 1997 from this Court restraining the appellant institute from terminating the services of the first respondent / writ petitioner from the post of Associate Professor pending disposal of the writ petition.

8. Though the first respondent / writ petitioner took up the issue of reservation initially, it was given up by her during the argument in the writ petition.

9. As already pointed out, the grounds of attack in the writ petition are three fold, (i) one of the selected candidate, by name Dr.S.G.Kamath for the post of Associate Professor was not possessing basic qualification as required by the advertisement; (ii) one of the selected candidate, Dr.A.Rangan is not qualified because he does not possess first class in Mathematics in his P.G; (iii) the Selection Committee was not properly constituted as per Statute 12 of the Indian Institute of Technology Madras.

10. The learned Senior counsel appearing for the appellants contends that Dr.S.G.Kamath, one of the selectees for the post of Associate Professor possessed the requisite qualification as per the advertisement. The learned Senior counsel for the first respondent / writ petitioner inter alia contends that Dr.S.G.Kamath did not possess basic qualification as required in the advertisement and specialisation in the advertisement refers only research area.

11. It is not in dispute that Dr.S.G.Kamath was possessing Under Graduate Degree as well as Post-Graduate in Mathematical Physics and his Degree of Doctorate was also only in Mathematical Physics and not in Mathematics. The learned Senior counsel for the appellants pointed out that Mathematical Physics is only the allied subject and this has been specifically mentioned in the advertisement as area of specialisation / allied subjects. When we see the advertisement, dated 06.01.1995 for the post of Associate Professor, it reads thus :

"Indian Institute of Technology, Madras

Invites applications from exceptionally qualified candidates for the following Faculty Positions :

Qualification & Experience :

Professor : (Scale of Pay : Rs.5100-150-5700-200-7300)

Ph.D., with First Class or equivalent (in terms of Grades etc) at the preceding degree in the appropriate branch with a very good academic record throughout and a minimum 10 years of teaching / research / industrial experience of which at least 3 years should be at the level of Assistant Professor / Associate Professor.

Associate Professor : (Scale of Pay : Rs.4500-150-5700-200-6300)

Ph.D., with First Class or equivalent (in terms of Grades etc) at the preceding degree in the

appropriate branch with a very good academic record throughout and a minimum 8 years of teaching / research / industrial experience of which at least 3 years should be at the level of Assistant Professor.

...

Departments and Fields of Specialisation

Aerospace Engineering

.....

Mathematics

For the post of Professor

Fluid Mechanics; Functional Analysis

For the post of Associate Professor

Algebra; Applied Probability; Functional Analysis

Graph Theory; Mathematical Physics; Statistics"

12. Though Mathematical Physics is given under the head of fields of specialisation, the basic qualification required for the post of Associate Professor as per the above advertisement is Ph.D., with first class or equivalent at the preceding degree in the appropriate branch. Appropriate branch means, Mathematics. Specialisation is meant to clarify about the research area, as rightly mentioned by the second appellant in its counter in the writ petition. There is absolutely no mention about the allied subject in the advertisement and only field of specialisation is mentioned. Since

Mathematical Physics is allied subject of Mathematics, it cannot be construed that a person possessing qualification in Mathematical Physics is having prescribed basic qualification as called for in the advertisement.

13. As rightly pointed out by the learned Senior counsel for the appellants the relevance of qualification should not be decided by the Court. But the question here is whether the appellant institute selected the candidates for the post of Associate Professor with the basic qualification as decided and advertised by them.

14. The contention of the appellant institute that Dr.S.G.Kamath who is possessing qualification in Mathematical Physics has already been working as Assistant Professor in the Department of Mathematics and therefore, he was considered for the post of Associate Professor in Mathematics does not hold good, as the basic qualification stipulated for the post of Associate Professor in the advertisement is otherwise.

15. The learned Senior counsel appearing for the appellant contends that as far as Dr.A.Rangan is concerned, the minimum

required qualification could be relaxed in respect of exceptionally qualified candidates, as per Ministry of Human Resources Development instructions, dated 19.04.1990 and by applying the same as well as exercising power under Statute 12 (10), the Selection Committee short-listed him for interview.

16. Statute 12 (10) reads thus :

"The Selection Committee shall examine the credentials of all persons who have applied and may also consider other suitable names suggested, if any, by a member of the Selection Committee or brought otherwise to the notice of the Committee. The Selection Committee may interview any of the candidates as it thinks fit and shall, at the discretion of its Chairman, cause a written test or tests to be held for all or some of the candidates as the chairman may think fit, and shall make its recommendations to the Board or the Director, as the case may be, the names of the selected candidates being arranged in order of merit."

17. The letter dated 19.04.1990 of the Ministry of Human Resources Development to the Director of Indian Institute of Technology is with respect to the adoption of the revised scale of pay. In this letter, it is also mentioned that Ph.D., with first class or

equivalent (in terms of Grades etc) at the preceding degree in the appropriate branch with a very good academic record throughout would be eligible to be appointed as Lecturer.

18. The contention of the learned Senior counsel for the appellants on the basis of the above letter of the Ministry as well as the Statute 12(10) that Selection Committee is entitled to relax the qualification is not acceptable, when it has been specifically advertised stipulating minimum required qualification as Ph.D., with first class or equivalent (in terms of Grades etc) at the preceding degree in the appropriate branch. As per Statute 12 (10) apart from the candidates applied, the Committee may consider other suitable names if suggested by any member and make recommendation. Here it is not the case of the appellants that Dr.Rangan was suggested by any of the members. But he applied pursuant to the advertisement and participated in the selection process.

19. As far as Dr.A.Rangan is concerned, the Annamalai University, where he was awarded M.Sc., Degree graded only second class. When the University graded as second class, the Selection Committee has no authority to round off the mark 59.6 as 60 and held he was possessing first class in M.Sc. Contrary to the

basic qualification required as given in the advertisement, the selection made by the committee is irregular and cannot be termed as good, even if there is no allegation of malafide explicitly made. It is also to be pointed out that the first respondent / writ petitioner retired long back.

20. As rightly observed by the learned single Judge, it is not made known how Dr.A.Rangan could apply for the post when the minimum basic qualification was required to be first class in the preceding degree. The suspicion raised by the learned single Judge that the above candidate might have applied having come to know that he would be considered for the post. Had the second class in the preceding degree been the prescribed minimum qualification, many persons possessing such qualification of second class with exceptionally qualified would have applied and chances to others were thus denied. Therefore, the contention of the learned Senior counsel for the appellants in this regard is not sustainable.

21. As far as constitution of Selection Committee is concerned, as per Section 12 of the Statutes, the Selection Committee shall consists of

(i) Director

Chairman

(ii) One nominee of the Visitor	Member
(iii) Two nominees of the Board, one being an expert, but other than a member of the Board	Members
(iv) One except nominated by the Senate other than a member of the Senate	Member

22. In this case, nominee of the visitor and nominee of the Senate are absent. Members, who should constitute the committee had been kept out and instead some of the experts were added. The Director himself included four members of his choice, which is against the provisions of the Statutes.

23. The learned Senior counsel appearing for the appellants contends that there is "Ganga" clause in the Indian Institute of Technology Act, 1961. Section 36(A) of the said Act reads thus :

"36. No act of the Council or any Institute or Board of Senate or any other body set up under this Act or the Statutes, shall be invalid merely reason of -

(a) any vacancy, in, or defect in the constitution thereof, or

(b) any defect in the selection, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case."

24. The learned Senior counsel for the appellants cited the Madhya Pradesh High Court Judgment in Dr.Rameshwar v. H.G.Vishwa Vidya, reported in 1989 MP.L.J, 389, for the proposition that the proceedings of the Selection Committee cannot be termed as void and illegal in view of the Omnibus curative for an irregularity in its procedure not affecting the merits of the case.

25. The learned Senior counsel for the first respondent per contra contends that the appellant institute does not have the protection under the above provision as the irregular procedure adopted by the appellant affected the merit of the case.

26. Here applying the irregular procedure, the selection was made to the higher post of the faculty namely, Professor and Associate Professor. Denying the rights of certain persons will no doubt affect the merits of the case. Therefore, the appellant institute cannot take shelter under Section 36 of the Indian Institute of Technology Act and the argument of the appellant in this regard is not acceptable.

27. The contention of the learned Senior counsel for the appellants that the first respondent / writ petitioner having

subjected herself for the interview cannot raise any objection as to the constitution of committee. The constitution of committee for interview was not made public and the first respondent / writ petitioner came to know of the committee only when she attended the interview. No doubt she has not raised objections immediately. That cannot preclude the first respondent / writ petitioner to raise her contention about the constitution of the committee in the writ petition. Immediately on knowing about non-acceptance of her joining report, she filed writ petition in W.P.No.4257 of 1997.

28. The learned Senior counsel for the appellants pointed out that the first respondent / writ petitioner participated for the post of Professor in the subsequent interview pursuant to the advertisement, dated 29.06.1996 and none including the first respondent / writ petitioner was found suitable for the post of Professor and however, as mentioned in the notification, the first respondent / writ petitioner was considered and selected for the post of Associate Professor and orders was issued on 18.12.1996, wherein the first respondent / writ petitioner joined the said post on 06.01.1997.

29. In W.P.No.4257 of 1997 also the plea of the first respondent / writ petitioner is that selection committee was not

validly constituted. The selection committee consisted of 8 members. But there was no nominee from the Senate and Visitors nominee did not participate. The learned single Judge has rightly held that selection committee was not validly constituted as per the Statutes.

30. The learned single Judge, considering the lapse of time and the irregularity in selection process, directed the first respondent / writ petitioner to be treated to have been appointed as Associate Professor w.e.f 27.07.1995 and Professor w.e.f 18.12.1996 in the Indian Institute of Technology, Madras.

31. The learned Senior counsel for the appellants pressed in to service the Judgments of the Hon'ble Supreme Court, *State of Mysore v. C.R.Sheshadri*, reported in (1974) 4 SCC 308 and *State Bank of India v. Mohd Mynuddin*, reported in (1987) 4 SCC 486, for the proposition that Court is not by its very nature competent to appreciate the abilities, qualities or attributes necessary for the task, office or duty of every kind of post in the modern world and the Court cannot assume to be selected to a post due to efflux of time.

32. In **State of Mysore v. C.R.Sheshadri** reported in **(1974) 4 SCC 308**, the Hon'ble Supreme Court has held as

follows:

"If the rule of promotion is one of sheer seniority it may well be that promotion is a matter of course. On the other hand if seniority-cum-merit is the rule, as in the Supreme Court decisions cited before us, promotion is problematical. In the absence of positive proof of the relevant service rules, it is hazardous to assume that by efflux of time the petitioner would have spiralled up to Deputy Secretaryship. How could we speculate in retrospect what the rule was and whether the petitioner would have been selected on merit and on the strength of such dubious hypothesis direct retro-active promotion and back pay?"

33. In **State Bank of India v. Mohd. Mynuddin**, reported in **(1987) 4 SCC 486**, the Hon'ble Supreme Court has held as follows :

"5... If the promotion has been denied arbitrarily or without any reason ordinarily the court can issue a direction to the management to consider the case of the officer concerned for promotion but it cannot issue a direction to promote the officer concerned to the higher post without giving an opportunity to the management to consider the question of

promotion. There is good reason for taking this view. The Court is not by its very nature competent to appreciate the abilities, qualities or attributes necessary for the task, be hazardous for it to undertake the responsibility of assessing whether a person is fit for being promoted to a higher post, which is to be filled up by selection."

34. Following the above rulings of the Hon'ble Supreme Court, this Court is not inclined to venture upon and decide about appointment for the posts. The learned single Judge, has rightly held that the first respondent's candidate is to be considered for the post of Associate Professor and Professor, pursuant to the advertisement for that posts, dated 06.01.1995 and 29.06.1996. Considering the irregularities meted out by the first respondent. The appellants are directed to consider the first respondent / writ petitioner for the post of Associate Professor and Professor from the relevant dates.

35. The post of Professor as well as Associate Professor is one of selection post. As already pointed out, the first respondent / writ petitioner was selected for the post of Associate Professor and orders was issued on 18.12.1996 as she was found not suitable for

the post of Professor. She is entitled to the post of Associate Professor from the date of her joining report, i.e., 06.01.1997 in response to the order dated 18.12.1996. By the order of this Court in writ petition, interim injunction has been granted and therefore, she is entitled to the pay and allowance for the post of Associate Professor from the date of her joining to the said post, i.e., 06.01.1997.

36. As far as CBI enquiry is concerned, the learned Senior counsel for the appellants argued that CBI enquiry could be ordered by the Court only in case where element of criminality has been alleged and where there is sufficient material to make out a prima facie case for CBI enquiry. He further pointed out that there is no allegation of malafide in the selection and there is also no finding of malafide against the appellant institute and therefore, CBI enquiry is not warranted in this case.

37. In this case, no doubt selection for the posts of Associate Professor and Professor were made contrary to the terms of the advertisement and gross irregularity has been committed by the appellant institute in the above selection process. As rightly argued by the learned Senior counsel for the appellants, there is no

allegation of malafide by the first respondent / writ petitioner. The learned single Judge, got suspicion over the selection from the materials available in the case.

38. The learned Senior counsel for the appellants cited Secretary, v. Sahngoo Ram Arya, reported in (2002) 5 SCC 521, Sakiri Vasu v. State of U.P., reported in (2008) 2 SCC 409, State of WB v. Committee for Protection of Democratic Rights, reported in (2010) 3 SCC 571, for the proposition that the Courts have wide powers conferred by Article 32 and 226 of the Constitution and this extra ordinary power must be exercised sparingly, cautiously in exceptional situations, where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice.

39. It is also to be borne in mind the right to life under Article 21 includes the right of a person to live without being hounded by the police or CBI to find out whether he has committed any offence or is living as a law-abiding citizen.

40. In **Secretary v Sahngoo Ram Arya**, reported **(2002) 5 SCC 521**, it has been held by the Hon'ble Supreme Court

as follows :

"5. While none can dispute the power of the High Court under Article 226 to direct an inquiry by the CBI, the said power can be exercised only in cases where there is sufficient material to come to a prima facie conclusion that there is a need for such inquiry. It is not sufficient to have such material in the pleadings. On the contrary, there is a need for the High Court on consideration of such pleadings to come to the conclusion that the material before it is sufficient to direct such an inquiry by the CBI.

This is a requirement which is clearly deducible from the judgment of this Court in the case of *Common Cause*, (1999) 6 SCC 667 . This Court in the said judgment at paragraph 174 of the report has held thus:

"174. The other direction, namely, the direction to CBI to investigate "any other offence" is wholly erroneous and cannot be sustained. Obviously, direction for investigation can be given only if an offence is, prima facie, found to have been committed or a person's involvement is prima facie established, but a direction to CBI to investigate whether any person has committed an offence or not cannot be legally given. Such a direction would be contrary to the concept and philosophy of

"LIFE" and "LIBERTY" guaranteed to a person under Article 21 of the Constitution. This direction is in complete negation of various decisions of this Court in which the concept of "LIFE" has been explained in a manner which has infused "LIFE" into the letters of Article 21."

6. It is seen from the above decision of this Court that the right to life under Article 21 includes the right of a person to live without being hounded by the Police or the CBI to find out whether he has committed any offence or is living as a law-abiding citizen. Therefore, it is clear that a decision to direct an inquiry by the CBI against a person can only be done if the High Court after considering the material on record comes to a conclusion that such material does disclose a prima facie case calling for an investigation by the CBI or any other similar agency, and the same cannot be done as a matter of routine or merely because a party makes some such allegations. In the instant case, we see that the High Court without coming to a definite conclusion that there is a prima facie case established to direct an inquiry has proceeded on the basis of 'ifs' and 'buts' and thought it appropriate that the inquiry should be made by the CBI. With respect, we think that this is not what is required by the

law as laid down by this Court in the case of Common Cause, (1999) 6 SCC 1999."

41. In **State of WB v. Committee for protection of Democratic Rights**, reported in **(2010) 3 SCC 571**, the Hon'ble Supreme has held as follows :

"70...The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to

properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations. "

42. Bearing the above Judgments in mind, considering the entire facts and circumstances of this case, this Court is of the considered view that this case does not warrant any enquiry by the CBI for the lapses committed by the appellant institute. It is also to be borne in mind that the selection and appointments in this case is of the year 1995 to 1997 and all the persons concerned to the above process might have retired and any enquiry at this length of time will not be fruitful. It is suffice to observe and direct that the appellant institute as an Institute of National importance should be role model to others in adopting the procedures and laws not only in selection process but in all aspects.

43. For the aforesaid reasons, these writ appeals are partly allowed in the following terms :

(i) The appellant institute is directed to pay the pay and allowance to the post of Associate Professor for the period between 06.01.1997 and her superannuation to the first respondent / writ petitioner.

(ii) The appellant institute is directed to consider the first respondent / writ petitioner for the post of Associate Professor from 27.07.1995 and for the post of Professor from 06.01.1997 or from the relevant dates, in the light of the findings made in these writ appeals.

(iii) The order as to the enquiry into the correctness and legality of the appointments made from 1995 in the appellant institute by the Central Bureau of Investigation is set aside.

The appellant institute is directed to comply the direction within two months from today. Consequently, connected miscellaneous petitions are closed. No costs.

(A.S., J.) (P.K., J.)
22.08.2016

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tsvn

A.SELVAM, J.
AND
P.KALAIYARASAN, J.
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