

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.A.Nos.18 to 21 of 2016
and
C.M.P.Nos.313 and 314 of 2016

Dr.Chandra Krishnamurthy
Vice-Chancellor of Pondicherry University
A-14, Versova Bhaskar Niwas,
Yari Road,
Andheri (West),
Mumbai-400 061.

and official residence
Vice Chancellor's bungalow,
Pillaichavady,
Puducherry-605 014.

.. Appellant
in all Writ appeals

Vs.

1. The Joint Secretary to Government,
Government of India,
Ministry of Human Resource Development,
Department of Higher Education,
Shastri Bhawan,
New Delhi-110 001

2. Pondicherry University,
Non Teaching Staff Welfare Association,
represented by its President,
K.Kaliaperumal,
Regn.No.237 of 1989,
R.Venkataraman Nagar, Kalapet,
Puducherry-605 014.

.. Respondents
in all writ appeals

W.A.No.18 of 2016 is filed under Clause 15 of the Letters Patent
against the order dated 15.12.2015 passed in W.P.No.29351 of
2015.

W.A.No.19 of 2016 is filed under Clause 15 of the Letters Patent against the order dated 15.12.2015 passed in M.P.No.3 of 2015 in W.P.No.29351 of 2015.

W.A.No.20 of 2016 is filed under Clause 15 of the Letters Patent against the order dated 15.12.2015 passed in W.P.No.29352 of 2015.

W.A.No.21 of 2016 is filed under Clause 15 of the Letters Patent against the order dated 15.12.2015 passed in M.P.No.3 of 2015 in W.P.No.29352 of 2015.

Prayer in WP.29351 of 2015

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records of the respondent passed in No.39-2/2015-Desk(v) dated 21.8.2015 and quash the same.

Prayer in WP.29352 of 2015

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the respondents herein in F.No.39-2/2015 Desk(V) dated 21.8.2015 and quash the same and consequently direct the respondent to furnish all the documents relied on in the show cause notice dated 21.8.2015.

Common prayer in MP.3/2015 in WP. 29351 & 29352/2015 to implead the petitioner as a party respondent No.2 in WP. 29351 and 29352 of 2015 respectively.

For Appellant : Mr.Prashant T.Jayaswal, SC
for Mr.P.Krishnan

For Respondents : Mr.G.Rajagopalan,
Additional Solicitor General
for M/s.Rabu Manohar for R-1

Ms.R.Vaigai for M/s.Balan Haridas
for R-2

COMMON JUDGMENT

(Judgment of the Court was made by SATISH K.AGNIHOTRI, J.)

Mr.Rabu Manohar, learned counsel accepts notice for the first respondent and Mr.Balan Haridas, learned counsel accepts notice for second respondent. With consent, writ appeals are taken up for final disposal at the admission stage itself.

2 The instant intra-court appeals are filed against the common order dated 15th December, 2015 made in W.P.Nos.29351 and 29352 of 2015.

3 The appellant / writ petitioner, questioning the correctness of the order dated 21st August, 2015 passed by the first respondent, whereunder the appellant was placed under compulsory wait with effect from 22nd August, 2015 till further orders and the Senior-most Dean was appointed as acting Vice-Chancellor (in-charge) for the Pondicherry University, filed the first writ petition, being W.P.No.29351 of 2015.

4 The second writ petition, being W.P.No.29352 of 2015 was filed challenging the validity of the show cause notice dated 21st August, 2015. The show cause notice was issued, pointing out several irregularities, by the President of India in his capacity as the Visitor of the University in exercise of his power under Section 16 of the General Clauses Act, 1897, as to why the appellant should not be dismissed from the post of Vice Chancellor of the Pondicherry University. The appellant was called upon to submit her explanation within a period of 21 days.

5 The sole contention of the learned Senior counsel for the appellant is that the show cause notice is in the nature of final order as it indicates the final order of dismissal. Secondly, several allegations have been recorded in the show cause notice without proper verification and without affording an opportunity of hearing. It is also contended that the compulsory wait order is prejudicial and has been passed without affording an opportunity of hearing.

6 The learned Senior counsel further submits that the appellant has not been furnished with relevant documents to enable her to submit her defence. This would amount to violation of principles of natural justice.

7 The learned Single Judge, examining all facets of the case, dismissed the writ petitions, holding as under :

"20.This Court is satisfied that the procedural fairness is certainly adopted in the case of the petitioner. She has been given all the requisite documents as sought for. The petitioner instead of giving a reply has rushed to this Court. This Court does not find any malafides in passing the order impugned. There is neither any malice in law nor facts. The petitioner has not demonstrated the same before this Court. The persons against whom allegations have been made are also not before this Court. One has to also understand that the post of the petitioner is also a tenure post. Thus, she

cannot be treated like a regular Officer of the University. The decisions relied upon by the learned Senior Counsel appearing for the petitioner are not applicable to the case on hand. It is not a case of a preliminary enquiry replacing a full fledged one after framing of charges. The entire scope and ambit of the Act and Regulations qua the post of Vice Chancellor is distinct and different from other posts. The petitioner has rushed to this Court without cooperating with the proceedings initiated by the 1st respondent.

21. The challenge made to the order keeping the petitioner on "compulsory wait" is also rejected as the same is not punitive in nature. It has been passed by taking into consideration of the report of the Pondicherry Administration. Apparently, there is a law and order problem. The strike was withdrawn only after the petitioner left the campus on leave. The petitioner cannot be said to be a person aggrieved. There is no contra material produced by the petitioner to the satisfaction of the Court that the situation is not volatile. Further, it is only an interim measure. Therefore, apart from the availability of jurisdiction to pass the said orders, even on merits, the petitioner is not entitled to succeed."

8 The writ petitions are premature. The show cause notice has not caused any prejudice and the same is not punitive. The show cause notice only indicates that in the event of not being satisfied with the explanation / representation submitted by the appellant, the appellant may be dismissed. It is neither conclusive nor punitive.

9 The learned Additional Solicitor General appearing for the first respondent submits that the appellant has been supplied with all documents. However, if a further request is made for the supply of some other relevant documents, the first respondent will look into the application and furnish all relevant documents, if not supplied earlier. The learned Additional Solicitor General further submits that the show cause notice is neither punitive nor conclusive. Proper enquiry as contemplated under the provisions of the Act will be initiated and the final decision will be taken, on giving full opportunity of hearing to the appellant.

10 We have given our anxious consideration to the pleadings and documents appended thereto. The allegations recorded in the show cause notice are of serious nature, which requires deeper enquiry. The principles of natural justice is

inherent and the issuance of show cause notice is neither final nor conclusive. The appellant has been given opportunity to place her representation / reply to the show cause notice. The final decision has not yet been taken. Thus, at this stage, the learned Single Judge has rightly not interfered with the show cause notice and dismissed the writ petitions. The order of the learned Single Judge is unexceptionable, warranting no interference.

11 In respect of the order to place the appellant in compulsory wait, the learned Senior counsel for the appellant seeks liberty to make a representation. Accordingly, if a representation is made, the first respondent is obliged to consider the same and pass appropriate orders on merits and in accordance with law. We are not inclined to make any observation on the merits of the case, at this stage.

12 Lastly, the learned Senior counsel for the appellant submits that some more time be granted to submit reply to the impugned show cause notice, to which there is no cavil from the respondents.

13 On consideration, we are inclined to grant further two weeks time from the date of receipt of a copy of this order, to the appellant to file a reply / representation to the show cause notice.

14 For the reasons mentioned herein-above, there is no merit in the appeals. Accordingly, all writ appeals stand disposed of with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

vvk

s/d-

Assistant Registrar(CS-VII)

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

To

The Joint Secretary to Government,
Government of India,
Ministry of Human Resource Development,
Department of Higher Education,
Shastri Bhawan,
New Delhi-110 001.

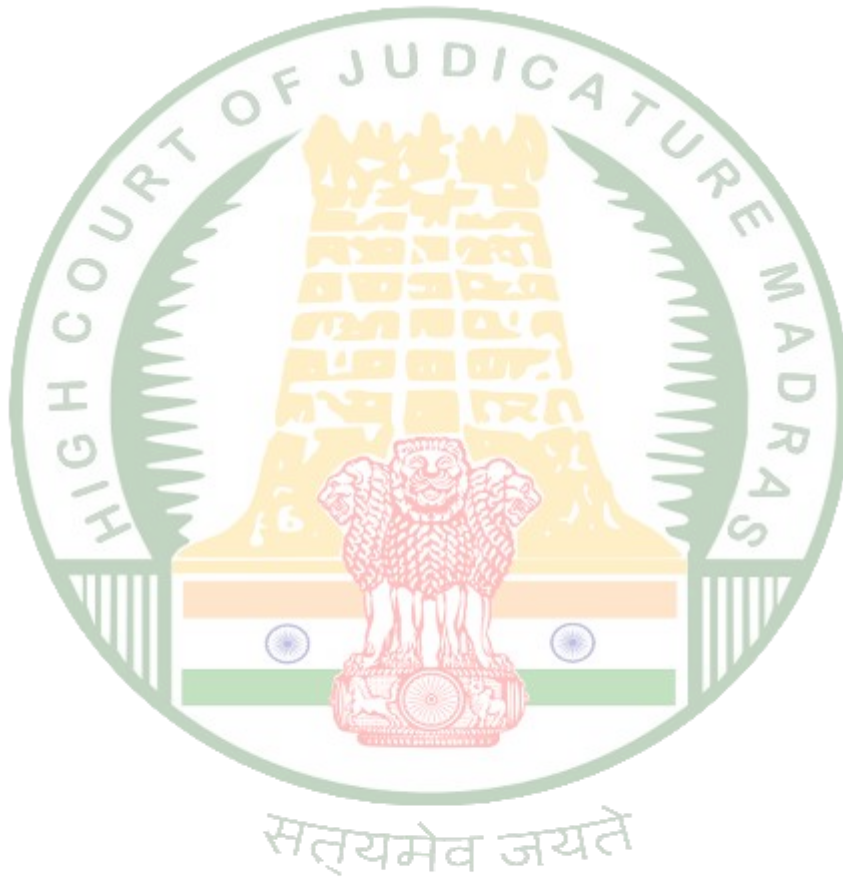
+ 4 ccs to Mr.P.Krishnan, Advocate SR 1921 to 1924

+ 1 cc to Mr.Balan Haridoss Advocate SR 1975

+ 1 cc to Mr.B.Rabu Manohar, SCGP, Advocate SR 1750

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prk27/1

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