

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.21967 of 2016

ORDER:

The petitioner claims to have passed M.Sc., Ph.D. in Zoology and he applied for the post of Assistant Professor in Zoology, pursuant to Notification No.2 of 2009, dated 31.12.2009 issued by the University. He was appointed as Assistant Professor in Zoology on 30.04.2010. He has been working as such till today. The appointment of the petitioner and that of one Dr.Ch.Sravanthi was challenged in W.P.Nos.12563, 15138 and 24732 of 2010, and the appointment of the petitioner and that of Dr.Ch.Sravanthi was set aside by the learned single Judge by common order dated 28.02.2011. The learned single Judge set aside the appointment on the ground of improper evaluation of the comparative merit of candidates by the selection committee, bias of the committee in the process of selection and due to lack of requisite quorum in the Executive Council meeting held on 30.04.2010. The order of the learned single Judge was challenged in W.A.No.233 of 2011 and batch, and the Division Bench (to which I am a party) by common judgment dated 19.03.2015 held that the appointments were irrational and arbitrary, and the selection committee did not follow due procedure. However, with regard to the bias, the Division Bench did not agree with the learned single Judge. Apart from that, the Division Bench was of the opinion that there was no requisite quorum as held by the learned single Judge, and made the following observations:

“We are informed that the selection committee has made appointments of several persons on the basis of the recommendations made by the Executive Council and all those persons who were appointed by the very same Executive Council are working since last about 3 to 4 years and if we hold that the appointments of Dr.Sravanthy and Dr.Gowda are illegal for want of quorum that would seriously jeopardize the interest of all such appointments which were made by the Executive Council with its four members. We, therefore, observe that it would be open to the University, if they so desire and advised, and if the circumstances so demand, to place all such recommendations of the selection

committee before the Executive Council afresh, duly constituted as per the provisions of Section 18 of the Act, and seek approval and confirmation of their appointments with effect from the date on which they were appointed.”

Against the said order of the Division Bench, the petitioner herein filed SLP (C) No.13827 of 2015 and the Supreme Court along with the SLP filed by Ch.Sravanthi disposed of the same on 11.05.2015. The Supreme Court while disposing of the appeals noted that the State Government constituted a committee to look into the irregularities committed by the University in G.O.Rt.No.82, dated 11.02.2011, and the committee submitted its report on 26.03.2011. Based on the said report, the Government issued orders setting aside the selections for taking up the process afresh. It also held that the above directions of the Division Bench do not call for interference, but made the following observations:

“However, we only wish to add that the said direction of the Division Bench should be carried out expeditiously preferably within two months in the interest of the institution and the student community. With the very same view, we also direct the *status quo* to be maintained pending the above said exercise is carried out by the University. We also direct the respondent University to carry out the exercise as directed by the Division Bench in the above said paragraph and conclude the same within two months from the date of production of a copy of this order.”

In spite of the same, the observations made by this Court which were approved by the Supreme Court were not carried out by the University, and the University is still having the improperly constituted Executive Council as on today. In view of the order of the Division Bench and that of the Supreme Court, a consequential order was passed on 28.06.2016 by the University on the threat of a Contempt Case in C.C.No.246 of 2016 filed by one Dr.N.Vinatha. The services of the petitioner are consequently terminated with immediate effect with the following observations:

“Vide reference 7th cited the SPL CS to Govt. Higher Education Dept. has issued instructions to place the matter before the executive council afresh and complete the process. Accordingly the matter has been placed before the 115th Executive council meeting held on 27.06.2016. The

matter has been discussed thoroughly in Executive council and the Executive council has resolved the following “in compliance to Court directions of Hon’ble High Court of Telangana and Andhra Pradesh States in WP No.12563, 15138 and 24732 of 2010 and WA Nos.233 to 235 of 2011 and 1553 to 1555 of 2013 and Hon’ble Supreme Court orders in SLP(C) 13827 of 2015 and the directions of the Govt. through Lr.No.3601/UE/2015-2, dt.28.05.2016 it is resolved to cancel the approval of the 87th Executive council regarding the approval of the selection committee recommendations of Dr.Gowda Rajender and Dr.CH.Sravanthi only.”

The said order of termination is challenged in the present Writ Petition.

As pointed out above, the learned single Judge set aside the appointment of the petitioner and another by common order dated 28.02.2011 and the same was confirmed by the Division Bench on 19.03.2015. The Division Bench set aside the selections on the above grounds and the relevant observations are at paragraph 22 of the judgment, which are as follows:

“In the present case, having regard to the Ordinance II, UGC Regulations-2000, the details furnished by each of the candidates and the settled proposition of law, we are satisfied that the selection committee did not follow the procedure, in selecting Dr.Sravanthy and Dr.Gowda scrupulously. The UGC Regulations of 2000, after specifying the details of the selection committee under clauses 3.1.0 to 3.4.0, postulates that it may be ensured that the process of selection in every case is fair, transparent and credible and should involve assessment of aptitude for teaching and research, ability to communicate clearly and effectively, and ability to analyze and discuss. These clauses of UGC Regulations read with Ordinance II framed by the University under Section 29(1) of the Act, in our opinion, mandate to maintain a record in respect of each of the candidates interviewed by the selection committee. If the Ordinance II and the Regulations of UGC are read to mean that maintenance of the record by the selection committee is not necessary, perhaps that will amount to giving go-by to the established procedure to maintain transparency and fair play in the selection process. For conducting an oral test, a heavy responsibility is cast on the members of the selection committee, in particular the experts, in order to ensure fair play and transparency in the selection process. Members of the selection committee are expected to maintain separate

assessment, in particular the experts, on whom more responsibility is cast by Ordinance II. It is true that normally the Courts should be slow to interfere with the opinions expressed by the experts and that it would normally be wise and safe for the Courts to leave the decision of the academic matters to the experts, but in the present case we do not find any indication from the record that the experts were given separate assessment sheets to be filled up at the time of interview reflecting their opinion on the qualifications, research, experience and suitability of the candidates. In our opinion, the decision of the selection committee, in the present case, deserves to be interfered with being discriminatory, irrational, arbitrary and violative of the rules/Ordinance framed by the University. It also deserves to be interfered with for not following the due procedure and non maintenance of record.”

The observations made in paragraph 43 of the Division Bench judgment relate to the constitution of the Executive Council and it is one of the grounds of challenge and while examining the said challenge, the above observations in paragraph 43 were made. But, there was no doubt with regard to the illegality of selections as noted by the learned single Judge and the Division Bench. In fact, the learned Counsel for the appellants prayed for staying the judgment for a period of four weeks and this Court declined to grant any stay as the learned Standing Counsel for the University submitted before the Division Bench that they would take at least four to six weeks for implementing the judgment. This could be seen from paragraphs 52 and 53 of the judgment.

The present impugned order is only in implementation of the orders of the learned single Judge and the Division Bench and in view of the same, the Writ Petition deserves to be dismissed, and the same is accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

08.07.2016

vs