

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.3119 of 2017

Pondicherry University All Teachers
United Welfare Association,
rep. By its Chairman Dr.P.Thilakan,
Associate Professor,
Centre for Green Energy Technologies,
Pondicherry University,
Kalapet, Puducherry - 14.

... Petitioner

vs.

1. Union of India,
rep. By its Secretary to Government,
Ministry of Human Resources Development,
(Department of Higher Education),
Shastri Bhavan, New Delhi 110 001.
2. Pondicherry University,
rep. By the Registrar,
Puducherry - 14.
3. Professor Dr.Anisha Basheer Khan,
Vice Chancellor (Acting),
Pondicherry University,
Puducherry -14.
4. Dr.M.Ramachandran

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Declaration, declaring that Notice No.PU/LC/U-4/124th EC/2016-17/85, dated 19.01.2017 issued by the 4th respondent/2nd respondent convening the 124th meeting of the executive council of 2nd respondent University, which is scheduled to be held on 09.02.2017 at 10 a.m. at the venue of the Council Hall of the 2nd respondent University or on any other date and the agenda items to be placed in the said meeting as illegal and arbitrary and consequently direct the 2nd respondent University and its officials to convene the Executive Council meeting and to take decisions on policy matters and on issues relating to appointments, promotions, etc., only after the appointment of

the regular Vice Chancellor by the Visitor/His Excellency the President of India and only after the assumption of office by the regular Vice Chancellor.

For Petitioner : Mr.R.Krishnaswamy

For 1st Respondent : Mr.Vijay Narayan,
Senior Counsel
for Mr.Stalin Abimanyu

O R D E R

The petitioner has come up with this Writ Petition seeking to declare the Notice No.PU/LC/U-4/124th EC/2016-17/85, dated 19.01.2017 issued by the 4th respondent/2nd respondent for convening the 124th meeting of the Executive Council of the 2nd respondent University, which is scheduled to be held on 09.02.2017 at 10 a.m. at the venue of the Council Hall of the 2nd respondent University and for a consequential direction to the 2nd respondent University and its officials to convene the Executive Council meeting and take decisions on policy matters and on issues relating to appointments, promotions, etc., only after the appointment of the regular Vice Chancellor.

2. According to the petitioner, their Association is a service Association registered under the Societies Registration Act. The issue pertaining to which the petitioner Association has filed this Writ Petition is that the regular Vice Chancellor Dr.Chandra Krishnamurthy preferred to go on leave from 14.08.2015 to 21.08.2015, as there was unrest and agitation in the University Campus, demanding her removal from the post of Vice Chancellor. In the meanwhile, the 3rd respondent was appointed as an Acting Vice Chancellor by the 2nd respondent University. While so, the 1st respondent, by a letter dated 21.08.2015 placed the regular Vice Chancellor, Dr. Chandra Krishnamurthy, on compulsory wait, since she refused to go on leave after 21.08.2015. By his letter dated 11.02.2016, the 1st respondent informed the 2nd respondent University that the 3rd respondent cannot continue as the Acting Vice Chancellor after 27.02.2016, consequent to the cessation of her Deanship.

3. Pursuant thereto, the 2nd respondent relieved the 3rd respondent from the post of Vice Chancellor on 27.02.2016 with immediate effect and appointed R.Prabakar Raya as the Acting Vice Chancellor, who is the next senior most Dean, as per the statute 1(A)7 from 28.02.2016 to 07.03.2016. It is the further case of the petitioner that the 3rd respondent, though being relieved from the post of Vice Chancellor (In-charge) took Vice Chancellor's Letter Pad with the help of some of his close Associates and created a back dated order dated 26.02.2016 which was actually drafted on 04.03.2016 for relieving Dr.J.Sampath

from the post of Registrar (In-charge) from the A.N. of 26.02.2016 and appointed Dr.M.Ramachandran as Registrar (In-charge), the 4th respondent herein, to overcome her relieving order, so as to continue as Vice Chancellor (In-charge). Hence, this Writ Petition.

4. Learned counsel for the petitioner submitted that the 1st respondent has issued an order dated 07.08.2012 to all the Vice Chancellors of Central Universities, which clearly spells out that the Acting Vice Chancellors cannot exercise statutory powers and they are prohibited from taking any action, which is in conflict with Rule 12(2) of CCS (CCA) Rules, 1965 of the Government of India. He contended that when the 3rd respondent was holding her office as an interim stop gap arrangement, the orders of the 1st respondent ought to have been obeyed by her while discharging her duties as an acting Vice Chancellor.

5. At the outset, a preliminary objection has been raised by the learned Senior Counsel appearing for the 1st respondent asserting that the writ petition is not maintainable in view of the fact that the petitioner association has come forward with this writ petition with an omnibus prayer.

6. As pointed out by the learned Senior Counsel for the 1st respondent, the maintainability of the writ petition filed by an Association came up for consideration before a Division Bench of this Court in the case of Tamilaga Asiriyar Kootani, rep. by the General Secretary V. Annamalai vs. The Government of Tamil Nadu, rep. By its Secretary to Government, School Education Department, Chennai - 9 and others) reported in 2005 Writ Law Reporter 389, wherein in para No.15, it was held as follows:-

"15. In our opinion, if any educational institution or Head Master or Teacher is aggrieved by the impugned G.O. Ms. No.13 dated 09.02.2005, they can file a writ petition in this Court, challenging the same, but the appellant-association had no locus standi in the matter. It cannot be said that the educational institutions or Head Masters are so poor that they are unable to approach this Court. If any particular educational institution or Headmaster has a grievance against the impugned G.O. Ms. NO.13 dated 09.02.2005, it is for such a person to file a writ petition or writ appeal, and not for any association. The writ appeal is dismissed on the ground of lack of locus standi. The writ petition is dismissed for the same reason."

7. Learned Senior Counsel appearing for the 1st respondent, referring to the communication dated 09.10.2014 of the Government of India, fairly submitted that the 1st respondent will strictly adhere to the guidelines issued by the Government in respect of the powers of the Vice Chancellors. The said communication clearly states that the Acting Vice Chancellors can perform the routine nature of work of the University, which includes appointments on temporary basis and convening the meetings of the Committees like Finance Committee, Executive Council and Academic Council. It is further stated that decisions like amending the Statutes, bringing new ordinances or amending the ordinances, appointment of permanent teaching and non-teaching staff, creation of new posts, etc. should not be taken up by the acting Vice Chancellors.

8. Thus, recording the said submission of the learned Senior Counsel appearing for the 1st respondent, this Writ Petition is closed. No costs. Consequently, connected W.M.P.No.3041 of 2017 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

aeb

To:

1. The Secretary to Government,
Union of India,
Ministry of Human Resources Development,
(Department of Higher Education),
Shastri Bhavan, New Delhi 110 001.
2. The Registrar,
Pondicherry University,
Puducherry - 14.

+1cc to Mr.Stalin abimanyu, Advocate sr.8350

+1cc to Mr.V.Ajoy Khose, Advocate sr.8266

W.P.No.3119 of 2017

msm(co)
ss(15/2/2017)