

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WRIT PETITION NO.12429 OF 2017
AND WMP NOS.13191 AND 13192 OF 2017

Anna University Teachers' Association (AUTA)
Rep. by its President Dr.I.Arul Aram
Anna University
Chennai - 600 025.

... Petitioner

Vs

1. Anna University
Rep. by its Registrar
Guindy,
Chennai - 600 025.

2. The Convener Committee
Rep. by its Principal Secretary
Higher Education Department
Fort St. George, Chennai - 600 009.

3. The Syndicate Committee of Anna University
Guindy,
Chennai - 600 025.

4. The Search Committee for Selection of
Vice - Chancellor to Anna University
Fort St. George,
Secretariat, Chennai - 600 009.

5.All India Council for Teacher Education

Rep. by its Chairman
7th Floor, Chanderlok Building,
Janpath, New Delhi - 110 001.

6.University Grants Commission

Rep. by its Secretary
Bahadur Shah Zafar Marg
New Delhi - 110 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Declaration to declare the resolution no.242.10 dated 30.03.2017 passed by the third respondent Syndicate of the 1st respondent University for convening Convocation as illegal and without jurisdiction and against the Scheme of the Anna University Act, 1978 and consequently direct the fourth respondent Search Committee to expedite the process of forwarding the name of the persons for the post of Vice - Chancellor and select one of them as Vice - Chancellor within a time frame fixed by this Court and thereafter to conduct the 37th Annual Convocation as per the Anna University Act, 1978.

For Petitioner : Ms.L.Parvin Banu

For Respondents : Mr.K.Venkatramani
Additional Advocate General VII
Assisted by Mr.L.P.Shanmugasundaram
Standing Counsel for Anna University

ORDER

Writ petition is filed for a declaration to declare the Resolution No.242.10 dated 30.03.2017 passed by the third respondent Syndicate of the 1st respondent University for convening Convocation as illegal and without jurisdiction and against the Scheme of the Anna University Act, 1978 and for a consequential direction to the fourth respondent Search Committee to expedite the process of forwarding the name of the persons for the post of Vice - Chancellor and to select one of them, as Vice - Chancellor within a time frame, fixed by this Court and thereafter, to conduct the 37th Annual Convocation, as per the Anna University Act, 1978.

2. Writ Petitioner is an Association viz., Anna University Teachers' Association (AUTA). Teachers, Staff Members, as well as the students of the University were continuously fighting for the uplift of the University.

3. Anna University was incorporated under the Anna University Act, 1978 (Tamil Nadu Act 30 of 1978). Originally, the University was established as a University of Technology, in the State of Tamil Nadu comprising of College of Engineering, Alagappa College of Technology,

School of Architecture and Planning and Madras Institute of Technology. Later, Government of Tamil Nadu passed an amendment and Repeal Act, 2011 to convert it as affiliating type University. The University is now comprised of various autonomous and non-autonomous colleges and confers degrees to various curriculum.

4. The issue revolves around Section 11(4) of the Act, which reads as under:

(4) When any temporary vacancy occurs in the office of the Vice - Chancellor or if the Vice - Chancellor is, by reason of absence or for any other reason, unable to exercise the powers and perform the duties of his office, the Syndicate shall as soon as possible, make the requisite arrangements for exercising the powers and performing the duties of the Vice - Chancellor."

WEB COPY

5. According to the petitioner, in the past, when there was a temporary vacancy due to the completion of the term of the earlier Vice-Chancellor, Prof.P.Mannar Jawahar, one P.Kaliraj, Senior Most Professor in Anna University was appointed as Vice - Chancellor (officiating), during the pendency of the search, for the next Vice - Chancellor. Later, His

Excellency the Governor appointed one Prof.M.Rajaram, as Vice - Chancellor, and his term ended on 25.06.2016.

6. On 09.11.2016, vide G.O.(D) No.377, Higher Education (I-1) Department, a Search Committee was constituted to recommend the names of the qualified persons for the post of Vice - Chancellor in Anna University, and the same was published in the Official Gazette on 11.11.2016.

7. As in the past, a Senior Most Professor should have been appointed as Vice-Chancellor (Officiating). On 19.06.2013, a Gazette Notification was issued relating to the Statutes on Convocation for conferring Degrees, including the first respondent University. The Convocations shall ordinarily be conducted in the month of November / December.

WEB COPY

8. As per Clause 5.1 of the Statute on Convocation, in the absence of Chancellor, the Pro-Chancellor shall preside; in his/her absence, the Vice - Chancellor shall preside; in their absence another member of the Syndicate nominated by the Chancellor shall preside.

8.1. As per 5.2, during the Special Syndicate, the Vice - Chancellor has to certify, based on the reports of the examiners to be qualified for the Degrees.

8.2. As per 5.5, the Vice - Chancellor shall deliver the Welcome Address and present a report on the academic achievements of the University during the year.

8.3. As per 5.7, the Chancellor has to invite the Vice - Chancellor to read the citation and present on (the name of the Recipient) for the candidature for the award of Degree of Doctor of Science.

Therefore, it is contended that the Vice-Chancellor's presence is mandatory, for any convocation.

9. On 06.10.2016, a Syndicate meeting was conducted and Syn.Res.No.239.4 was resolved to conduct 37th Convocation of the University, in November / December 2016 and it was further resolved to authorize the Chairman of the Convener Committee i.e., the Principal Secretary, Higher Education Department to decide on the Chief Guest and Honoris Causa, for the 37th Annual Convocation.

10. The abovesaid resolution was stiffly resisted by the Professors. Therefore, by letter dated 01.12.2016 the Governor's Secretariat, directed the Syndicate Committee to re-visit the Syn. Res. No.239.4 and deliberate all the issues again, including the signing of certificates. Accordingly, a Syndicate meeting was held on 30.03.2017 and as per Syn. Res. No.241.7, a Three Member Convener Committee was constituted with the approval of the Syndicate, headed by the Chairman of the Convener Committee i.e., the Principal Secretary, Higher Education Department and resolved that the Chairman of the Convener Committee to handle the administrative matters of the respondent University.

11. On a previous occasion, in Manonmaniam Sundaranar University, degree certificates were signed by an IAS Officer. Some of the foreign Universities did not recognize the Degree signed by a person other than the Vice-Chancellor. Pursuant to this, University of Madras has not conducted Convocation, as there was no Vice - Chancellor. Conferring Degrees / Post Graduate Degrees. Conferring degrees and awarding medals is a very solemn occasion, and Vice - Chancellor alone competent to perform the solemn function. Instead of appointing a Vice-Chancellor to conduct Convocation, the Chairman of the Convener Committee attempts to usurp the office of Vice-Chancellor and conduct Convocation. The same

is opposed to the convention and therefore, petitioner made a representation on 08.05.2017 to the Government.

12. On the basis of these factual aspects, the petitioner has raised a legal issue that Syn. Res. No.242.10 dated 30.03.2017 passed by the Syndicate for convening Convocation is illegal and without jurisdiction and as against the Scheme of Anna University Act, 1978. A new Vice - Chancellor has to be selected and he has to confer Degrees and the Principal Secretary to Government, Higher Education Department can only perform administrative functions, and cannot act as a Vice - Chancellor.

13. Therefore, in the present circumstances, as per the precedent, a Senior Most Professor can be appointed to act as Vice - Chancellor (Officiating) and not the Principal Secretary to Government, Higher Education Department.

14. Further, Convocation should be announced 30 days in advance, whereas, for the Convocation scheduled on 19.05.2017, notification was issued only on 11.05.2017 and therefore, conducting Convocation is illegal. Signature of the Vice - Chancellor is a must in the Degree Certificate, otherwise it will give rise to validity issues, as it happened in Manonmaniam Sundaranar University. Therefore, the Convocation shall not be conducted without selecting a Vice - Chancellor.

15. Learned counsel appearing for the petitioner vehemently contended that the decision to conduct 37th Annual Convocation was taken on 30.03.2017, is without a full quorum. The Syndicate consists of Five Class I Ex-Officio Members and other Seventeen Class II Members. Out of Seventeen Members, ten Members shall be from academic background, like Professors, Head of Departments, Directors, Academic Council Members, Senior Professors etc., whereas, only three Members from Class II members participated and other seats were vacant, and in the absence of a full quorum, the decision taken by the Convener Committee for conducting 37th Annual Convocation is not legal. Secondly, the Provisional Certificates issued by the University are valid till the regular Degree Certificates are issued to the students.

16. In support of her contention, learned counsel for the petitioner relied on a judgment of the Delhi High Court in **VINOD KUMAR VS. UNIVERSITY OF DELHI AND ANOTHER [W.P.(C) NO.8758 OF 2016 DATED 03.10.2016]** wherein, it has been held that provisional certificate is valid, till a regular Degree certificate is issued by the University and therefore, there is no hurry in conducting the Convocation and the certificate is considered to be valid, only when the Vice - Chancellor signs

the certificate and if it is signed by somebody else, then the students would be put to irreparable loss and so many Foreign Embassies are questioning the validity of the certificates, causing hardship to the students.

17. Per contra, the respondent nos.1, 2 and 3 have filed counter affidavit and contended that according to Section 11(4) of Anna University Act, 1978 and Amendment Act 2011, when any temporary vacancy occurs in the office of the Vice - Chancellor or when the Vice - Chancellor is, by reason of illness, absence or for any other reason unable to exercise the powers and perform the duties of his office, the senior most Professor of the University shall exercise the powers and perform the duties of the Vice-Chancellor, till the Syndicate makes the requisite arrangements for exercising the powers and performing the duties of the Vice - Chancellor.

18. Therefore, as per the above provision, when the tenure of the Vice - Chancellor came to end on 25.05.2016, a Syndicate meeting was held on 26.05.2016, in the presence of the then Vice-Chancellor Dr.Rajaram and a Convener Committee was constituted for performing the duties of the Vice - Chancellor. Therefore, it is the contention that

<http://www.judis.nic.in> appointment of a Senior Most Professor as Vice - Chancellor (Officiating) as

per Section 16 of Chapter IV, read with Section 7 of Schedule - II (First Statute), as per 30(1) of Chapter VII of Anna University Act, 1978, does not arise. Syndicate Committee is the competent and highest decision making authority and therefore, the Committee's action is well within the jurisdiction to exercise its powers by passing resolution No.242.10 dated 30.03.2017 and the Chairman of the Convener Committee is authorised by the Syndicate, within the provisions of the Act, to sign the Degree Certificates.

19. Syndicate has made arrangements by constituting the Convener Committee for exercising the powers and performing the duties of the Vice - Chancellor, including administrative duties, such as approving visits abroad by the faculty and staff, sanctioning travel grants, recommending research projects for grant of funds, administrative and financial sanction for procurement of goods, services etc. The petitioner has accepted all the functions performed by the Convener Committee which were in their favour and cannot now turn around and selectively object Convocation, which is intended to help the students aspiring for higher education and employment. Locus of the petitioner Association representing the entire Teacher community of AUTA is objected and it is

stated that no representation is received from any of the Teaching

community against Convocation. In fact, students and teachers are desirous of convening the Convocation. Totally, 1507 Degrees for Ph.D Scholars and 64 Gold Medalists are proposed to be awarded by the Chancellor in person and more than two lakh graduands would be conferred the respective degrees in - absentia, during the Convocation function on 19.05.2017. If Convocation is not conducted, lakhs of students, who are waiting to get the degree certificates for the past two years would be seriously affected and their future prospects would be damaged beyond repair.

20. Dr.P.Kaliraj, the then Senior Most Professor, was appointed as Vice - Chancellor (officiating), till the Syndicate makes the requisite arrangements for exercising the powers in performing the duties of the Vice - Chancellor under Section 11(4) of the Anna University Act 1978 (Tamil Nadu Act 30 of 1978) whereas, the present Syndicate has appointed a Convener Committee, even in the presence of the then Vice-Chancellor Dr.Rajaram, for exercising the powers and performing the duties of Vice - Chancellor (Officiating). Therefore, appointment of Senior Most Professor, till requisite arrangements are made, does not arise. In the 241th meeting held on 06.10.2016, proposal to conduct 37th Annual Convocation in December 2016 was fixed by the Syndicate and concurrence was also

obtained. Further, the Syndicate authorised the Chairman, Convener Committee to decide on the Chief Guest and to recommend a panel of three Eminent Persons to the Chancellor, for selection of one of them, as the Chief Guest for the 37th Convocation.

21. Vide Letter No.4432/UI/2016 dated 01.12.2016, the Governor's Secretariat requested the University to place the matter for conducting 37th Convocation once again, in the Syndicate for deciding all aspects of Convocation in a comprehensive manner, including the issue relating to signing of the Degree Certificates, for further action in the matter.

22. As per the directive of the Chancellor's office, the above matters were considered by the Syndicate and resolved to authorize the Chairman, Convener Committee, Anna University, Chennai, to recommend a panel of three Eminent Persons to the Chancellor, for selection of one of them, to be the Chief Guest for the 37th Annual Convocation and to sign the Degree Certificates of the graduates. Issuance of Degree Certificates and conferment of degrees lies upon the University and there is no specific statute, mentioning that Degree Certificates have to be signed and issued

only by the Vice - Chancellor.

23. The Chancellor (His Excellency the Governor of Tamil Nadu) is the Head of the University and having inherent power to conduct Convocation. On this direction to the Syndicate, Anna University has resolved to conduct Convocation and he has consented to preside over the 37th Annual Convocation on 19.05.2017 at 11.00 a.m. Accordingly, the Convenor Committee has decided to appoint the Chairman of the Convener Committee to sign the Degree Certificates as per Syn. Res. No.242.10 dated 30.03.2017 and hence, there is nothing illegal in conducting the Convocation.

24. In similar circumstances, in Madurai Kamarajar University, Mother Teresa University, Manonmaniam Sundaranar University, Convener / Chairman of the Committee was authorised to sign the Degree Certificates of the graduates as Vice - Chancellor and the students have voluntarily and happily participated in the above Convocations and benefited from the same. Therefore, the contention of the petitioner that the Chairman of the Convener Committee shall not sign the Degree Certificates is not tenable. The Chairman of the Convener Committee acts according to the powers conferred under the Statute. The respondents have contended that the writ petition is liable to be dismissed.

25. When the Committee was appointed on 11.11.2016 itself, instead of appointing a Vice - Chancellor, the Convener Committee is trying to conduct the Convocation, except the jurisdiction of Vice - Chancellor, which is not legal. Even assuming that the Convocation must be conducted for the welfare of the students, a Senior Most Professor can only act as Vice - Chancellor and not as a nominee of the Government. The autonomy of the University would be affected by appointing the Secretary to the Government, who is not an academician. When the Governor's Secretariat directed the University to re-visit Syn. Res. No.239.4 in respect of signing aspects, action of the respondents in continuing with the conduct of Convocation is highly arbitrary and illegal. Therefore, the petitioner prayed that the Syn. Res. No.242.10 dated 30.03.2017 passed by the third respondent Syndicate of the first respondent University should be declared as illegal and Convocation shall be conducted only after the appointment of Vice - Chancellor.

26. As per Section 29 in Chapter VII of the Anna University Chennai Act, 1978, Statutes may provide for all or any of the following matters, namely, (i) holding of Convocation to confer degrees; (ii) conferment of honorary degrees and academic distinctions; (iii)

constitution, powers and functions of the authorities of the University etc. Therefore, Statutes of Convocation for conferring Degree issued in letter cited above, as per Statute 5.1, in the absence of the Chancellor / Vice - Chancellor, the Pro-Chancellor shall preside, whereas, in the present case, the Chancellor himself was presiding the Committee and therefore, there is no violation of any statute. As per Statute 5.12, the Chancellor shall sign the record of Degrees (Register of graduands) conferred. As per Statute 9.3, presentation of persons at the Convocation on whom Honorary Degrees are to be conferred shall be made by the Vice - Chancellor or by any person, nominated by the Syndicate. Statute 9.4 specifies the Diploma or Certificate of an Honorary Degree shall be signed by the Chancellor.

27. Heard the submissions made on either side and perused the materials available on record.

28. Before going into the factual matrix, Scheme of the Anna University Chennai Act, 1978 (Tamil Nadu Act 30 of 1978) has to be looked into. Section 5 of the Anna University Chennai Act, 1978 (*shortly "the Act"*) specifies the powers and functions of the University, namely,

(6).....

(d) to hold examinations and confer degrees, diplomas and other academic distinctions on persons who have -

(i) pursued a prescribed course of study; or

(ii) carried out research in the University or in any other centre or institution recognised by the University under the prescribed conditions;

(e) to confer honorary degrees or other academic distinctions in the prescribed manner and under the prescribed conditions;

(f) to prescribe conditions under which the award of any degree, diploma and other academic distinctions to persons may be withheld; "

28.1. Section 8 of the Act, specifies the Officers of the University, which reads as under:

"8. Officers of the University: -

The University shall consist of the following officers, namely:

1. *The Chancellor*
2. *The Pro-Chancellor*
3. *The Vice-Chancellor*
4. *The Deans*
5. *The Chairman of Faculties*
6. *The Registrar*
7. *The Finance Officer*
- 7-A. *The Controller of Examinations, and*
8. *Such other persons as may be declared by the statutes to be officers of the University."*

28.2. Section 9 of Chapter - III of the Act, describes Chancellor, as under:

"9. The Chancellor

[1] *The Governor of the State shall be the Chancellor of the University.*

[2] *The Chancellor shall be the head of the University and shall when present, preside at any convocation of the University and confer degrees, diplomas or other academic distinctions upon person entitled to*

receive them.

[3] *No honorary degree or other distinction shall be conferred by the University upon any person without the approval of the Chancellor.*

[4] *The Chancellor shall exercise such other powers and perform such other duties as may be conferred or imposed on him by or under this Act."*

28.3. Section 11 of the Act defines Vice - Chancellor. Section 11(4) of the Act envisaged the contingency when a temporary vacancy occurs in the office of the Vice-Chancellor. The original provision reads as under:

"(4) When any temporary vacancy occurs in the office of the Vice - Chancellor or if the Vice - Chancellor is, by reason of absence or for any other reason, unable to exercise the powers and perform the duties of his office, the Syndicate shall as soon as possible, make the requisite arrangements for exercising the powers and performing the duties of the Vice - Chancellor."

28.4. The amended provision of Section 11(4) of the Act reads as under:

of the Vice-Chancellor or when the Vice-Chancellor is, by reason of illness, absence or for any other reason unable to exercise the powers and perform the duties of his office, the senior most Professor of the University shall exercise the powers and perform the duties of the Vice - Chancellor till the Syndicate makes the requisite arrangements for exercising the powers and performing the duties of the Vice-Chancellor."

28.5. Section 12 of the Act defines the powers and duties of the Vice - Chancellor, which reads as under:

"[1] The Vice-Chancellor shall be the principal executive and academic head of the University.

[2] The Vice-Chancellor shall, in the absence of the Chancellor and Pro-Chancellor, presides at the convocation of the University and confer degrees, diplomas or other academic distinctions upon persons entitled to receive them.

[3]

[4]

[7] The Vice-Chancellor shall give effect to the decisions of the Syndicate."

28.6. Section 17 of the Act defines Members of the Syndicate, as under:

"[1] The Chancellor shall, as soon as may be, after the first Vice-Chancellor is appointed under section 39, constitute the Syndicate.

[2] The Syndicate shall, in addition to the Vice-Chancellor, consist of the following members, namely:-

Class I Ex-Officio Members

[1] The Secretary to Government, incharge of Higher Education

[2] The Secretary to Government, incharge of Industries

[3] The Secretary to Government, incharge of Information and Technology

[4] The Secretary to Government, incharge of Law;
and

[5] The Director of Technical Education"

28.7. Section 29 under Chapter - VII of the Act prescribes Statues, Ordinances and Regulations, which reads as under:

"29. Statutes, Ordinances and Regulations:-

Statutes

Subject to the provisions of this Act, the statutes may

provide for all or any of the following matters, namely: -

- i] the holding of convocation to confer degrees;*
- ii] the conferment of honorary degrees and academic distinctions;*
- iii] the constitution, powers and functions of the authorities of the University.*
- iv] ..."*

28.8. Section 30 of the Act, reads as under:

"30. Statutes how made

- 1. The first statutes shall be those as set out in Schedule II.*
- 2. The Syndicate may, from time to time, make statutes and amend or repeal the statutes in the manner hereinafter provided in this section.*
- 3. The Academic Council may propose to the Syndicate the draft of any statute to be passed by the Syndicate and such draft shall be considered by the Syndicate at its next meeting.*

Provided that the Academic Council shall not propose any amendment to any statute affecting the status, powers or constitution of any authority of the University,

until such authority has been given an opportunity of expressing its opinion upon the proposal and any opinion so expressed shall be considered by the Syndicate. "

28.9. Schedule-II of the Act provides for the Statutes of the University. Under Clause 7 of Schedule-II, powers and duties of the Syndicate have been described, which reads as under:

"7. Powers and duties of the Syndicate.

The powers and duties of the Syndicate shall be, -

[a]

[b]

[c] to appoint such committees, either standing or temporary, as it may consider necessary and specify the terms of reference thereof subject to the provisions of the Act and these statutes;

[d] सत्यमेव जयते

[e]

[f]

[g] to provide for the institution and conferment of degrees, diplomas and other academic distinctions;

[h] to provide for the institution, maintenance and award of scholarships, fellowships, studentships, medals, prizes and the like;"

28.10. Clause 10 of Schedule-II of the Act defines powers and duties of the Academic Council. Sub-clause (i) of Clause 10 of Schedule-II of the Act, reads as under:

"(i) to make recommendations to the Syndicate for the conferment of honorary degrees or other distinctions; "

29. By Tamil Nadu Government Gazette dated 19.06.2013, Statutes on Convocation for Conferring Degrees is published for Anna University, Chennai. Clause 2 of the same reads as under:

"2. Admission to Convocation:

Candidates who are eligible and certified to be qualified to receive the Degrees by the University shall be admitted to the ensuing Convocation. Such candidates are called graduands."

WEB COPY

29.1. Clause 5 of Statues on Convocation for Conferring Degrees, published in the Tamil Nadu Government Gazette dated 19.06.2013, reads as under:

"5. Procedures to be followed During the Convocation

5.1. Arrival of Dignitaries

The Chancellor, Pro-Chancellor, Vice-Chancellor, Chief Guest, Honorary Degree Awardee(s), Registrar, Members of the Syndicate, Controller of Examinations and Chairmen of Faculties shall wear academic robes and assemble in the Convocation Hall at the appointed day and hour as approved by the Syndicate / Chancellor. The types of academic robes and hoods to be worn by the dignitaries and by graduands shall be prescribed in Regulations.

In the absence of the Chancellor, the Pro-Chancellor shall preside; in his/her absence also, the Vice-Chancellor shall preside; in their absence another member of the Syndicate nominated by the Chancellor shall preside.

5.2. Special Meeting of the Syndicate

The approval of the Syndicate on behalf of the candidates for admission to the Degrees of the various faculties will be supplicated by the respective Chairman of Faculty in the following order:

- 1. Faculty of Civil Engineering*
- 2. Faculty of Mechanical Engineering*
- 3. Faculty of Electrical Engineering*
- 4. Faculty of Information and Computer Engineering*
- 5. Faculty of Technology*

6. Faculty of Architecture and Planning

7. Faculty of Science and Humanities

8. Faculty of Management Sciences

Each Chairman shall use the following formula for the approval.

"His/Her Excellency the Chancellor, I request that the Syndicate may be pleased to admit those persons, whom the Vice-Chancellor on the reports of the Examiners has certified to be qualified for the Degrees in the Faculty of (above mentioned Faculties)

5.11. Chancellor's Authorization

When all the candidates have been presented, the candidates will stand up and the Chancellor shall say to them:

"By virtue of the authority vested in me as Chancellor of Anna University, I admit you to the Degrees in the Faculties of Civil Engineering, Mechanical Engineering, Electrical Engineering, Information and Communication Engineering, Technology, Architecture and Planning, Science and Humanities and Management Sciences, for which you have been declared qualified in this University and in token thereof you have been presented with those Degrees and I authorize you to wear the robes

ordained, as the Insignia of your degrees".

5.12. Signing the Register of Graduates

The Chancellor shall sign the record of degrees (known as the Register of Graduates) conferred. "

29.2. Clause 9.3 and 9.4 of the Statues on Convocation for Conferring Degrees, published in the Tamil Nadu Government Gazette dated 19.06.2013, reads as under:

"9.3. *The presentation of persons at the Convocation on whom Honorary Degrees are to be conferred shall be made by the Vice - Chancellor or by any person, nominated by the Syndicate.*

9.4. *The Diploma or certificate of an Honorary Degree shall be signed by the Chancellor. "*

30. The main case projected by the petitioner revolves around amended Section 11(4) of the Act. As per amended Section 11(4), as seen from the provisions extracted above, when temporary vacancy occurs in the office of the Vice - Chancellor or if the Vice-Chancellor is, by reason of illness, absence or for any other reason unable to exercise the powers and perform the duties of his office, the Senior Most Professor of the University shall exercise the powers and perform the duties of the Vice-

Chancellor till the Syndicate makes the requisite arrangements for exercising the powers and performing the duties of the Vice-Chancellor.

31. From a reading of the above provision, it is made very clear that it is a temporary measure. In the absence of Vice-Chancellor, a person has to be nominated to discharge the duties of the Vice-Chancellor. The language employed would clearly show that during the temporary absence of the Vice-Chancellor, somebody has to be nominated to officiate in his place till his return or till requisite arrangements are made for exercising the powers in performing the duties of the Vice-Chancellor. Therefore, Section 11(4) of the Act does not specify when the office of the Vice-Chancellor is vacant.

32. Going through the Scheme of the Act, the important aspect to be considered is that the University shall have power to hold examination and confer degrees, diplomas and other academic distinctions on persons, in the prescribed manner and conditions. Therefore, it is clear that the Vice-Chancellor is not conferring the degree, but it is the University that confers a degree.

33. Section 8 under Chapter - III of the Act specifies the Officers

of the University. The Chancellor, Pro-Chancellor and Vice-Chancellor among others are the Officers of the University. The Chancellor is the Head of the University and shall, when present, preside at any Convocation of the University and confer degrees, diplomas or other academic distinctions upon persons entitled to receive them. Therefore, the Chancellor is the Head of the University and empowered to confer degrees / diplomas and other academic distinctions and thus, conferment of degrees shall not be done without the approval of the Chancellor.

34. In so far as the powers and duties of the Vice - Chancellor, as defined under Section 12 of the Act are concerned, the Vice - Chancellor shall be the principal executive and academic head of the University. This Section clearly states that he is the principal executive, and in his absence, somebody else can discharge the functions of the Vice-Chancellor. In the absence of the Chancellor and Pro-Chancellor, the Vice - Chancellor shall preside over the Convocation and confer degrees, diplomas and other academic distinctions. Sub-section 7 of Section 12 of the Act mandates that the Vice-Chancellor shall give effect to the decisions of the Syndicate. Therefore, the Vice-Chancellor is also bound by the decisions of the Syndicate.

35. The Syndicate consists of Class - I Ex-Officio Members and Clause- II other members. These members are governing the affairs of the University.

36. Section 29 under Chapter - VII of the Act defines the Statues, Ordinances and Regulations. Statutes provide for the conferment of honorary degrees and academician distinctions. The Statutes on Convocation, as stated supra, was published in the Tamil Nadu Government Gazette, dated 19.06.2013.

37. Clause 2 of the Statues on Convocation for Conferring Degrees, published in the Tamil Nadu Government Gazette dated 19.06.2013, reads as under:

"2. Admission to Convocation:

Candidates who are eligible and certified to be qualified to receive the Degrees by the University shall be admitted to the ensuing Convocation. Such candidates are called graduands."

37.1. Clause 5.1 defines a person, who shall preside over the

Convocation. The hierarchy is that the Chancellor shall preside over the Convocation. In his absence, the Pro-Chancellor and in the absence of the Pro-Chancellor, the Vice-Chancellor and in the absence of the above persons, another member of the Syndicate nominated by the Chancellor shall preside. Clause 5.1 would show that a Member of the Syndicate nominated by the Chancellor shall preside, means that in the absence of the Vice-Chancellor, a Syndicate Member can be nominated to preside over and confer the degrees. Clause 5.11 speaks about the Chancellor's authorization.

38. A reading of the above clause, as extracted supra, would show that the Chancellor would declare that recipients be conferred with the degrees and that the Chancellor signs the Register of Graduates on whom the degrees are conferred as per Clause 5.12. Further, reading of Clause 9.3 on the Statutes on Convocation shows that the presentation of persons at the Convocation shall be made by the Vice-Chancellor or by any person nominated by the Syndicate.

39. From a reading of all the above provisions and statutes, which clearly defines that the Chancellor is the person to confer degrees / diplomas or other academic distinctions, and the same shall be done with

the approval of the Chancellor. Therefore, the contention that degree certificates should be signed only by the Vice-Chancellor, does not appear to be mandatory.

40. A reading of sub-clause (g) of Clause 7 of Schedule - II of the Act, further shows that the Syndicate has got powers and duties to appoint such committees, either standing or temporary, as it may consider necessary and specify the terms of reference thereof, subject to the provisions of the Act and the statutes.

40.1. Sub-clause (k) of Clause 7 of Schedule - II of the Act, states that the Syndicate is empowered to provide for the institution and conferment of degrees, diplomas and other academic distinctions.

40.2. Sub-clause (l) of Clause 7 of Schedule - II of the Act provides for the institution, maintenance and award of scholarships, fellowships, studentships, medals, prizes and the like.

41. From the above provisions, it is seen that the powers of the Syndicate is equivalent to the powers of the University in so far as the conferment of degrees is concerned. The Syndicate is appointed by the Chancellor.

42. Clause 10 of Schedule - II of the Act specify the powers and duties of the Academic Council. The Academic Council shall make recommendations to the Syndicate for the conferment of honorary degrees or other distinctions. Therefore, the Academic Council, which consists of academicians, while recommending on matters in relation to academics recommends conferment of honorary degrees and other distinctions, to the Syndicate. Therefore, it can be construed that Syndicate has the power to confer degrees, diplomas and other distinctions, on persons with the approval of the Chancellor.

43. As seen from the Scheme of the Act governing Anna University, the Chancellor is the Head of the University, who confers degrees. The Vice-Chancellor is the principal executive to carry out the functions of the affairs of the University. The Vice-Chancellor, is bound by the decisions of the Syndicate. Therefore, the moot question is whether in the Convocation, whether the procedure is followed or not.

44. From the Resolution, passed on 26.05.2016, at the 240th meeting of the Syndicate, it is seen that the then Vice-Chancellor, Dr.M.Rajaram, was also present at the meeting, and it was resolved to

<http://www.judis.nic.in> constitute a Convener Committee consisting of three eminent persons. The

Convener Committee with the Chairmanship of Secretary to Government, Higher Education Department, is functioning since 26.05.2016. The other functions of the Syndicate, which includes the functions of the Vice-Chancellor in reviewing and approving the financial estimate, financial provisions for inspection, teaching, research advancing and discrimination of knowledge, establishment and maintenance of college hostels and other duties are not at all questioned by anyone.

45. As contended by the learned Additional Advocate General, conferment of degrees alone is questioned. Clause 7 of Schedule II of the Act empowers powers to the Syndicate to confer degrees, diplomas and other academic distinctions and to provide for the institution, maintenance and award of scholarships, fellowships, studentships, medals, prizes. Therefore, the power and performance of the duties of the Syndicate cannot be, selectively objected, as contended by the learned Additional Advocate General has some force. The Convener Committee constituted in the presence of the then Vice-Chancellor Dr.M.Rajaram, in its 240th meeting, continued to perform the duties of the Vice-Chancellor in his absence. The said resolution has not been challenged.

46. As stated supra, Section 11(4) of the Act deals with the

situation, where the Vice-Chancellor, while holding office is temporarily absent, then the Senior Most Professor, would officiate, in performing the functions till the requisite arrangements are made.

47. In the present case, (a) even during the tenure of the then Vice-Chancellor, a resolution has been passed and that there was no occasion to appoint a Senior Most Professor to officiate in the place of Vice-Chancellor; (b) the requisite arrangements made by appointing a Convener Committee is not challenged till date; and (c) what is challenged is the resolution passed by the Convener Committee, in its meeting held on 30.03.2017.

48. Resolution No.239.4 is not under challenge, and there was objection to the signing of degree certificates by a Professor of the petitioner's Association. The Governor's Secretariat, has written a letter dated 01.12.2016, to the Convener Committee, to decide on all aspects of Convocation, in a comprehensive manner, including the issue relating to the signing of Degrees.

49. Resolution passed in the 242nd Syndicate meeting held on 30.03.2017, challenged in this writ petition, is as extracted:-

Convener Committee, Anna University, Chennai to recommend a panel of three eminent persons to Chancellor for selection of one of them as the Chief Guest for the 37th Annual Convocation.

RESOLVED FURTHER TO AUTHORISE
the Chairman, Convener Committee, Anna University, Chennai to sign the degree certificates of the graduands."

50. As seen from the Scheme of the Act, Syndicate is empowered to confer degrees and in the absence of the Chancellor, Pro-Chancellor and Vice-Chancellor, any member of the Syndicate can preside over the Convocation, as prescribed under Clause 5.1, in the procedure for Convocation. Therefore, in the absence of challenge to the constitution of the Convener Committee and to the discharge of their duties, action of the Syndicate only in respect of conferment of degree alone, cannot be questioned at this stage.

51. Letter addressed by the Chancellor, vide Letter No.4432/U1/2016, dated 05.05.2017, expressing willingness of the Chancellor, to preside over the 37th Annual Convocation of Anna University, Chennai, on 19.05.2017 itself shows that the Chancellor has approved the

action of the Convener Committee. Therefore, in so far as the legality on the powers of conferring degrees by the Convener Committee, in the absence of Vice-Chancellor is concerned, the same cannot be found fault with and the Convener Committee is empowered to do so.

52. The arguments advanced by the learned counsel for the petitioner that the Vice-Chancellor alone is empowered to sign the degree and if it is signed by someone else, it will be a defective degree, cannot also be accepted. Moreover, statute nowhere mandates that Vice-Chancellor alone can sign the degree. The Vice-Chancellor is the principal executive to carry out the functions of the University. In fact, the Chancellor is empowered to sign the degrees. With the approval of the Chancellor, the Vice - Chancellor or anybody else can perform the administrative functions.

WEB COPY

53. On an earlier occasion, in the case of Manonmaniam Sundaranar University, the Convener / Chairman of the Committee has signed the Degree Certificates, in the place of Vice Chancellor. The degree certificate produced by the petitioner, in respect of Doctorate issued to one Easwara Pillai, in Sociology, dated 13.02.2016, shows that in the

absence of Vice - Chancellor, the Convener / Chairman of the Committee has signed the Degree Certificates. Though the learned counsel for the petitioner has alleged that it was not accepted by some Foreign Universities, the same is not substantiated with material evidence. The Act specifies that degree is conferred by the University and not by any individual. University is acting through the Chancellor, being the Head of the University and in his absence, somebody else nominated by him, can act. Therefore, the degree certificate signed by the Convener / Chairman of the Committee, cannot be declared as illegal or defective, as long as the seal of the University is there.

54. Contention of the learned counsel for the petitioner is that the provisional certificate is valid till a regular degree is issued by the University. In **VINOD KUMAR VS. UNIVERSITY OF DELHI AND ANOTHER [W.P.(C) NO.8758/2016 DECIDED ON 03.10.2016]** admission was denied for non-production of the degree certificate. That does not mean that the provisional certificate is valid throughout. Normally, it is valid for six months to one year.

55. Contention of the learned counsel for the petitioner that

when the provisional certificate is valid till the regular degree is issued,

and therefore, there is no error in conducting Convocation, without the appointment of the Vice-Chancellor, is not correct. In the present circumstances, it is desirous that the Vice-Chancellor be appointed, at the earliest and he shall be an academican. However, in the present case, the Vice-Chancellor was not appointed for a long time. Withholding Convocation, till a Vice-Chancellor is appointed, would be detrimental to the aspiring students.

56. From the pleadings, it could be seen that totally, 1507 Degrees of Ph.D Scholars and 64 Gold Medalists are waiting to get their Degrees. Apart from this, there are more than two lakh graduates, awaiting conferment. All these Scholars and students would be deprived of timely conferment of Degrees. Time is precious. Scholars and students have to register themselves and pursue their higher studies / placements. For the lethargy in the administration, students should not suffer. Therefore, in the interest of justice, it is necessary that the Convocation shall be permitted to go on.

57. Learned counsel for the petitioner submitted that before convening Convocation, thirty days time shall be given to the students, to apply for the same and the present Convocation is being conducted

hurriedly. In extraordinary circumstances, where the Convocation is cancelled and organised for the second time, in view of the hardships caused to the scholars and students, University is directed to adhere to the time schedule in future. Merely because the notice time is short, that by itself will not render the Convocation illegal. Those, who have not applied during this Convocation, can apply through supplementary Convocation. University is further directed to hold the supplementary Convocation at the earliest. It is also observed that in order to avoid such situation, Vice-Chancellor of the University shall be appointed at the earliest, without giving any room for complaints.

58. Therefore, in conclusion, this Court holds that the Chairman of the Convener Committee is empowered to sign the degree certificates, as done in the case of Manonmaniam Sundaranar University, Madurai Kamaraj University and other Universities. In view of the hardships suffered by the students for about two years, convocation need not wait, till a regular Vice-Chancellor is appointed,

59. For the foregoing discussions and observations made, this Court holds that the 37th Annual Convocation scheduled on 19.05.2017 at 11.00 a.m. can go on and there is no impediment to convene the Convocation, as per the Anna University Chennai Act, 1978.

60. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

18.05.2017

Index : Yes/No

Internet : Yes/No

TK

To

1.The Registrar
Anna University
Guindy, Chennai - 600 025.

2.The Principal Secretary
Convener Committee
Higher Education Department
Fort St. George, Chennai - 600 009.

3.The Syndicate Committee of Anna University
Guindy, Chennai - 600 025.

M.GOVINDARAJ, J.

TK

4.The Search Committee for Selection of
Vice - Chancellor to Anna University
Fort St. George, Secretariat,
Chennai - 600 009.

5.The Chairman
All India Council for Teacher Education
7th Floor, Chanderlok Building,
Janpath, New Delhi - 110 001.

6.The Secretary
University Grants Commission
Bahadur Shah Zafar Marg
New Delhi - 110 002.

WRIT PETITION NO.12429 OF 2017

WEB COPY

19.05.2017