

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33721 of 2015

and

M.P.No.1 of 2015

R.Dhandapani

...Petitioner

Vs.

1.The University of Madras,
Rep. by its Registrar,
Chepauk,
Chennai-600 005.

2.The Controller of Examinations,
University of Madras,
Chepauk,
Chennai-600 005.

3.The Enquiry Committee,
University of Madras,
Chepauk,
Chennai-600 005.

4.R.Srikumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the enquiry committee's report dated nil given by the 3rd respondent constituted vide reference No.Ph.D/2446/dated 27.03.2015 and quash the same.

For Petitioner : Mr.M.Ravichandran

For Respondents : Mr.R.Gopinath (for RR1 to 3)

Mr.L.Chandrakumar (for R4)

O R D E R

This writ petition is filed challenging the report submitted by the enquiry committee dated 22.07.2015.

2.The writ petitioner states that he has completed the Ph.D., Degree in Applied Microbiology Botany in University of Madras in the year 2008 and appointed as Lecturer in the Department of Microbiology in Periyar University, Salem from November 2008 onwards. The petitioner states that the fourth respondent Mr.R.Srikumar, challenged the appointments made in Periyar University and in this regard he filed W.P.No.15246 of 2010 against the writ petitioner and the said writ petition is pending. The allegation of the fourth respondent is that "The 4th respondent (R.Dhandapani) has mentioned in his application that he was doing full time Ph.D from the year 2001 to 2008. He has also mentioned that he had a total teaching experience of 6 years and 6 months covering the period from August 1999 to September 2006. It is impossible to do full time Ph.D Course as well as undertake teaching work on full time basis during the same period and that the time period spent for acquiring M.Phil/Ph.D Degree should not be counted as teaching experience. Further, he has neither passed the eligibility test for lecturership namely NET/SLET nor possessed M.Phil or Ph.D during the relevant period in order to be appointed as lecturer in College/University and to be counted that period for marks under teaching experience. Therefore, the 9 marks awarded under this caption is unlawful."

3.There are certain allegations and counter allegations both against the writ petitioner in respect of the sanctity of the Ph.D. Degree granted by the University of Madras. In this regard, an enquiry committee was appointed and the committee submitted a report on 27.03.2015. The sole allegation of the writ petitioner is that no opportunity has been provided to him to submit his explanations/objections and prove his stand in respect of the genuinity of the thesis submitted by him at the time of acquiring the Ph.D degree.

4.On the other hand, the petitioner is of the opinion that he has submitted the thesis in a genuine way and obtained the Ph.D Degree and there is no illegality or irregularity in obtaining the same. However, no opportunity was provided to him to explain his position in respect of the sanctity of the thesis or otherwise submitted by the petitioner before the University for granting Ph.D Degree. The committee has proceeded the enquiry based on the records available with the University and submitted a report on 27.03.2015. Thus, the report was submitted without adhering to the principles of natural justice. Before taking any decision based on the enquiry report, the respondents ought to have provided an opportunity to submit his explanation/objections on the enquiry report. However, no such opportunity was given to petitioner or to the 4th respondent.

5.This Court is of the view that any adverse order if passed, by the competent authority, an opportunity to all the aggrieved persons is to be provided in order to comply with the principles of natural justice. Any other orders adverse if any, to be passed by the competent authority, an opportunity to all the affected persons is mandatory in law. However, no such opportunity was provided either to the writ petitioner or to the 4th respondent before taking a decision in respect of the Ph.D decree conferred to the writ petitioner so as to declare the petitioner as disqualified. However, this Court is not inclined to consider the merits and demerits of the thesis or otherwise submitted by the writ petitioner so also the objections submitted by the 4th respondent in this regard. It is for the competent authorities to provide opportunities to all the parties concerned and after considering the materials available on record, take a decision in this regard and pass a final order.

6.Thus, this Court has to ensure that the aggrieved persons are provided with a reasonable opportunity to represent their pleadings by way of submitting their explanations/objections or through documents or witnesses etc. For this purpose, it is necessary to remit the matter back to the respondents for reconsideration and for passing fresh orders. Accordingly, the respondents are directed to receive representations/objections or documents etc., from the writ petitioner as well as from the fourth respondent by issuing notices to the parties and thereafter on receipt of such explanations/objections or documents, the respondents are at liberty to consider all the materials available on record within a period of three weeks from the date of receipt of copy of this order and to pass final orders on merits and in accordance with law within twelve weeks thereafter.

7.Accordingly, the writ petition stands disposed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS III)

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Sub Asst. Registrar

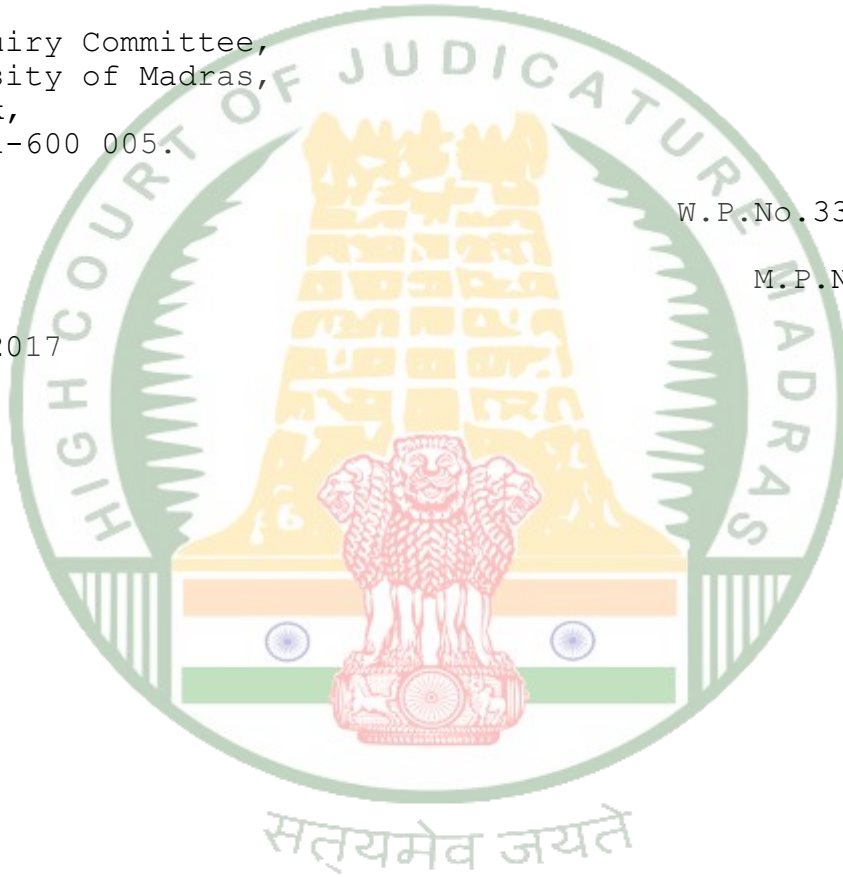
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To

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