

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2017

CORAM

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

W.P. No.8931 of 2016 &

WMP Nos. 7948 & 7949 of 2016

Dr.Ilamathy Janakiraman

[PETITIONER]

Vs

- 1 Union of India
Rep. by Secretary
Ministry of Human Resource Development
Department of Higher Education
Shastri Bhavan, New Delhi-110 011.
- 2 The Registrar
Pondicherry University
Puducherry
- 3 Prof. (Mrs). Anisha Basheer Khan
- 4 Prof. M.Ramachandran
- 5 PUTUWA-
(Pondycherry University All Teachers United
Welfare Association)
Rept. by its Secretary
Pondicherry University
Pondicherry

[RESPONDENTS]

सत्यमेव जयते

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari to call for the records relating to the memorandum dated 07.03.2016 made in NO. PU/Regr/ 2016/ 91 issued by the 4th respondent and to quash the same as highly illegal arbitrary.

For Petitioner : No appearance

For Respondents :Mr.Stalin Abhimanyu R2 to R4

O R D E R

The petitioner has come forward with this Writ Petition for quashing the memorandum issued by the fourth respondent dated 07.03.2016.

2(i) In the affidavit filed in support of this Writ Petition, it has been stated that the petitioner has completed M.A.(Tamil), M.A.,(Journalism and Mass Communication), B.Ed., P.G.Diploma in Women Studies and Saiva Sidhantha, Certificate in Telugu and Linguistic and Ph.D. The writ petitioner was appointed as Lecturer on 18th August, 1987, in the respondent University by way of direct recruitment. Further, he was recruited as Professor on 02.09.2005 and as Dean of the School of Tamil under Pondicherry University, for the period from 04.08.2014 to 03.08.2017. According to the writ petitioner, he is the senior most Dean with effect from 08.03.2016.

(ii) As per the Statute of the Pondicherry University Act, 1985, if the regular Vice-Chancellor Post is vacant and in case of no Director in the Roll, the senior most Dean will perform the duties of Vice-Chancellor as acting Vice-Chancellor and the writ petitioner as a senior most Dean is eligible for appointment to the post of Vice-Chancellor. Further, the writ petitioner has narrated his academic qualifications and service experiences, in the affidavit filed in support of the writ petition.

3(i) However, the challenge in this Writ Petition is relating to the Memorandum issued by the Registrar of the respondent University dated 07.03.2016. On a perusal of the Memorandum, it is alleged that the writ petitioner as being an Office Bearer of the Pondicherry University All Teachers Welfare Association (PUATUWA), in an executive capacity while discharging his duties as Dean, Subramaniya Bharathi School of Tamil Language and Literature, has willfully violated Clause 10 of Statutes 6 (3) of Chapter VI of Pondicherry University Academic Ordinances and accordingly, the writ petitioner has been placed under suspension from the position of Dean, Subramaniya Bharathi School of Tamil Language and Literature, with immediate effect, pending enquiry. Further, it was stated that Dr.A.Arivunambi, Professor, Subramaniya Bharathi School of Tamil Language and Literature, has been appointed as Dean (in charge) of Subramaniya Bharathi School of Tamil Language and Literature, until further orders.

(ii) The next part of the Memorandum states that in view the violation of the Statutes and Ordinances of Pondicherry University, the petitioner has been directed to explain within 14 days, as to why further disciplinary action as per Rules

shall not be initiated against him.

This Memorandum constrained the writ petitioner to file this Writ Petition.

4.The two limbs of the matter to be considered is that the writ petitioner being the Dean of the Subramaniya Bharathi School of Tamil Language and Literature, is alleged to have committed certain irregularities and hence he was replaced by another Professor Dr.A.Arivunambi, in respect of the post of Dean of Subramaniya Bharathi School of Tamil Language and Literature. However, in respect of initiation of disciplinary proceedings, the writ petitioner was provided with an opportunity to submit his explanations/objections, within a period of 14 days from the date of the order impugned in this Writ Petition. Thus, this Court has to make an observation that the order impugned in this Writ Petition is a show cause notice, directing the writ petitioner to submit his explanations/objections on the allegations set out in the Memorandum.

5.Relieving the writ petitioner from the post of Dean is administrative in nature, which will not provide any cause for the writ petitioner to challenge the Memorandum/show cause notice itself. At the outset, the Memorandum provides an opportunity to the writ petitioner to submit his explanations/objections. No writ can be entertained against the show cause notice in a routine manner and the writ petition can be entertained only (i) if the show cause notice has been issued in violation of the Statutory Rules (ii) such a notice was issued by incompetent authority having no jurisdiction or (iii) on the grounds of mala fides. If any allegation of mala fide is raised against the authority, the said authority has to be impleaded as party respondent in the writ petition in his personal capacity. In the absence of any of these grounds, no writ can be entertained against the show cause notice. It is left open to the writ petitioner to submit his objections/explanations. Contrarily, the Writ Petition moved at the stage of show cause notice, which cannot be adjudicated on the merits raised in this Writ Petition.

6.Judicial review of show cause notices are very much limited and the Courts are to be cautious while intervening with the show cause notices. Intermittent interventions against the show cause notice are certainly not preferable and the Court can entertain only on exceptional circumstances and not otherwise.

7.In this view of the matter, the writ petitioner has to submit his explanations/objections in relation to the allegations levelled against him and it is for the respondents to consider the same, based on the materials available on record and proceed further in this matter.Thus, no further adjudication

or consideration on merits needs to be undertaken in respect of the grounds raised in this Writ Petition.

8. In the result, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

rpa

To

- 1 Union of India
Rep. by Secretary
Ministry of Human Resource Development
Department of Higher Education
Shastri Bhavan, New Delhi-110 011.
- 2 The Registrar
Pondicherry University
Puducherry

GJ (CO)
EGR 10/10/2017

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सत्यमेव जयते

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