



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15757 of 2017

and

W.M.P.(MD).Nos.12462 and 12463 of 2017

Trichy Government Law College Alumni Association,
Trichy,
represented by its General Secretary J.Karthick Babu,
Government Law College Campus,
Trichy 620 023. ... Petitioner

Vs.

1.The Principal Secretary,
O/o. The Chancellor,
Tamil Nadu Dr.Ambedkar Law University,
Raj Bhavan,
Guindy,
Chennai.

2.State of Tamil Nadu,
represented by its Secretary to the Government
(in-charge),
Law Department,
Fort St. George,
Chennai - 09. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records comprised in G.O.(Rt) No.40, Law (LS) dated 27.04.2017 issued by the second respondent and quash the same as being arbitrary, vague and contrary to Regulation 7.3.10 of UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 and consequently direct the respondents to reconstitute the search committee for recommendation of names for appointment as Vice-Chancellor of Tamil Nadu Dr.Ambedkar Law University.

For Petitioner
For Respondents

: Mr.Raguvaran Gopalan
: Mr.B.Pugalendhi
Additional Advocate General
Assisted by Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by K.K.SASIDHARAN,J.]

The petitioner filed this writ petition challenging the Government Order in G.O.(Rt)No.40, Law (LS) dated 27.04.2017, constituting the Search Committee for selecting the Vice Chancellor to the Dr.Ambedkar Law University, Chennai.

2. The petitioner has taken up substantial contentions that notwithstanding the prescription in the UGC Regulations that the nominee in the Search Committee shall be "persons of eminence" in the sphere of higher education, no such stipulation was made either in the Tamil Nadu Dr.Ambedkar Law University Act, 1996, or in the order issued by the Government constituting the Committee.

3. The Court, taking into account the larger public interest shown by the petitioner, passed the following order, on 22.08.2017.

"This Writ Petition in pro bono publico is at the instance of the Trichy Government Law College Alumni Association, Trichy, and the challenge is to the Government order in G.O.(Rt.)No.40, Law (LS), dated 27 April, 2017, issued by the Government of Tamil Nadu, represented by its Secretary to Government, Law Department, constituting a Search Committee for recommending names for appointment to the post of Vice Chancellor of Tamil Nadu Dr.Ambedkar Law University, Chennai.

2. The impugned Government Order was issued constituting a Search Committee to recommend a panel of three names for the post of Vice Chancellor.

3. According to the petitioner, the members of the Search Committee shall be "persons of eminence" in the sphere of legal or higher education. While constituting the Committee, the Government has not taken note of the suitability of the members for occupying the chair of the Search Committee members.

4. We have heard the learned counsel for the petitioner.

5. The documents available on record indicate that the petitioner has submitted a representation to the Chancellor of the University to re-consider the decision of appointing three members to the Committee. In the said representation, the petitioner indicated that the Syndicate nominee is a staunch member of a Ruling political party in Tamil Nadu and he has been nominated to the Rajya Sabha as



a representative of the Party in power. According to the petitioner, there is every likelihood of such nominee acting in a biased manner suggesting candidates who owe allegiance to their political path. There are two former High Court Judges in the Committee. It is the case of the petitioner that all persons who have served their term of Judge cannot be called as persons who have contributed for the growth of "Law and Justice or for the growth of Legal Education". Therefore, the Government ought not to have been carried away by the title of "High Court Judge" and they should have meticulously pierced the veil of Judgeship to scan and verify the credentials of persons by taking cognizance of their contributions to the field of Law. The petitioner further contended that "it cannot lost sight of the fact that the Ruling Party prefers a handful of few retired Judges as its ready-made choices in all its Enquiry Commissions or other quasi judicial jobs, when there are huge list of other Judges, who have actually contributed in emphatic terms for the development of law".

6. The issue raised by the petitioner has to be examined in the light of the controversy relating to the appointment of Vice Chancellor for Madurai Kamaraj University. It is a matter of record that two out of three members of the Search Committee filed individual affidavits before this Court that the Chairman of the Committee implemented the Agenda of the Government in power, by appointing a particular candidate.

7. The Tamil Nadu Dr.Ambedkar Law University Act, 1996, contain a legislative mandate prescribing certain eligibility criteria for the person to be appointed as Vice Chancellor. The Act is however silent with regard to the credentials of persons required to be nominated as members of the 'Search Committee' under Section 12 (2) of the Act. The University Grants Commission Regulations, 2010, stipulates that the members of the Search Committee shall be "persons of eminence" in the sphere of higher education.

8. Since the petitioner raised a core question as to whether members of the Search Committee shall be persons of eminence, having experience in the sphere of higher education, we issue notice to the respondents.

9. In view of the prima facie case made out by the petitioner and taking into account the balance of convenience, we stay all further proceedings pursuant to the Government order in G.O.(Rt.)No.40, Law (LS), dated 27 April 2017. In short, the Search Committee shall maintain the status quo as on today until further orders.



10. Mr.M.Govindan, learned Special Government Pleader, takes notice on behalf of the respondents.

11. The second respondent is directed to file a counter-affidavit in answer to the contentions raised in the affidavit filed in support of the Writ Petition. The counter-affidavit must indicate as to the number of assignments given to the two Hon'ble Judges named in the Notification under challenge after their retirement, including appointment as Commission of Enquiry.

12. Post the Writ Petition on 06 September, 2017."

4. When the writ petition was taken up for hearing today, the learned Additional Advocate General by producing a copy of the Letter dated 17.08.2017, originated from the Principal Secretary to Governor and addressed to the Secretary to Government, Law Department, Secretariat, Chennai, submitted that the Chancellor has decided not to approve any of the names in the panel recommended by the Search Committee for appointment as Vice Chancellor of the Tamil Nadu Dr.Ambedkar Law University, Chennai.

5. According to the learned Additional Advocate General, nothing survives for adjudication, in view of the decision taken by the Chancellor not to approve the names recommended by the Search Committee.

6. Since the Government has amended the Tamil Nadu Dr.Ambedkar Law University Act by introducing amendment Act No.35, of 2017, necessarily the nominee of the Government shall be a retired Judge of the Supreme Court or any High Courts or an eminent educationist. The other nominee must be of the Academic Senate, who shall be an eminent educationist and the third nominee, who shall also be an eminent educationist. This would address the issue raised by the petitioner substantially.

7. The contention taken by the petitioner with regard to the non-incorporation of the Regulations framed by the University Grants Commission is left open to be decided in the appropriate proceedings.

8. The Vice Chancellor while rejecting the names short listed by the Select Committee, called upon the Government to constitute another Committee. The members of the Select Committee must be eminent Educationists and persons of impeccable integrity. This condition must be scrupulously followed in view of the past experience in which the Chancellor has returned the list forwarded by the Select Committee for appointment to the post of Vice Chancellor of Dr.Ambedkar Law University.



9. The Writ Petition is disposed of with the above direction. No costs.

WEB COPY

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
O/o. The Chancellor,
Tamil Nadu Dr. Ambedkar Law University,
Raj Bhavan,
Guindy,
Chennai.

2. The Secretary to the Government
(in-charge),
Government of Tamil Nadu,
Law Department,
Fort St. George,
Chennai - 09.

+1cc to M/S. Raguvaran Gopalan, Advocate SR.No. 76816
+1cc to Special Government Pleader, SR.No. 77289

W.P. (MD) Nos. 15757 of 2017
06.09.2017

AKV/MM
JM/SV MMS/SAR 1/04.10.2017/5P/5C