

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7401 of 2017
and
W.M.P.No. 8057 of 2017

S.D.Dinesh Kumar

.. Petitioner

Vs

The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram - 608 002.
Cuddalore District.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for records relating to the proceedings in University order No.203/2017 (C) dated 13.03.2017, on the file of the respondent herein and to quash the same.

For Petitioner : Mr.S.Subbiah
for M/s.P.Raja

For Respondent : Mr.P.Godson Swaminath
for M/s.Isaac Chambers

ORDER

The show-cause notice issued by the respondent in their proceedings, dated 13.03.2017, directing the writ petitioner to explain with regard to his educational qualification for the post of Assistant Professor is under challenge in this writ petition.

2. The learned Senior counsel appearing on behalf of the writ petitioner has made a submission that the issuance of show-cause notice is without jurisdiction and the Registrar has no such power to issue such show-cause notice in respect of Assistant Professors, working in the Annamalai University.

3. The learned Senior Counsel is of an opinion that, even as per the provisions of Annamalai University Act, 2013, more specifically Section 11, sub-clause (2) states that, the Registrar shall have power to take disciplinary action against such of the employees excluding teachers of the University and academic staff, as may be specified in the orders of the Syndicate and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or withholding of increments. Therefore, the Registrar has no power or authority to issue the show-cause notice and thus, the impugned show-cause notice is liable to be scrapped.

4. The impugned show-cause notice has been issued unilaterally by the Registrar of Annamalai University. Though the respondent, in their counter, states that the issue pertains to the resolution passed by the syndicate meeting, there is no such reference in the impugned order and therefore, impugned order is untenable.

5. The learned Senior Counsel states that the petitioner moved the present writ petition only on the ground of jurisdiction and powers and in respect of merits of the case, he is not inclined to discuss the same in the present writ petition and it is for the writ petitioner to explain before the competent authorities.

6. The learned counsel for the respondent opposed the contention of the writ petitioner in entirety, by stating that the Syndicate of the University passed a resolution in respect of the 11 Assistant Professors, who got appointed without possessing the requisite educational qualifications as per the University Grant Commission's regulations. Thus the Syndicate has taken up the matter and passed a resolution to initiate action against all the 11 Assistant Professors, who all are not possessing the requisite educational qualifications as per the University Grant Commission's regulations. Pursuant to the resolution passed by the Syndicate, the Vice Chancellor also approved the resolution and based on the approval of the resolution by the Syndicate as well as by the Vice Chancellor, the impugned Show-Cause notice has been issued to the writ petitioner, asking him to submit his explanation, in respect of the educational qualifications acquired by him and to ascertain the validity of qualifications possessed by the writ petitioner. Instead of submitting requisite educational documents, the writ petitioner has moved the present writ petition on the ground that the Registrar has no jurisdiction to issue show-cause notice.

7. The learned counsel for the respondent by referring very same provisions of the Annamalai University Act, 2013 states

that, Section 11, sub-clause (4)(c) states that "to keep the minutes of all the proceedings of the meetings of the syndicate, the academic council, the faculties, the boards of studies, the boards of examiner and of any committee appointed by the authorities of the University".

Section 11, sub-clause (4)(d) states that "to conduct the official correspondence of the syndicate" and sub-clause(f) stipulates that,"to exercise such other powers and perform such other duties as may be specified in the statutes, the ordinances or the regulations or as may be required, from time to time, by the syndicate or the Vice-Chancellor".

8. Thus, the Registrar has no power to take a decision independently. The learned Counsel appearing for the respondent would submit that as contended by the Learned Senior Counsel for the writ petitioner in the present case on hand, the Registrar has not taken any independent decision in his capacity. He just communicated the decision taken by the syndicate in its meeting. The Registrar as an Administrative Head of the University, is empowered to communicate the decision taken by the syndicate in its meeting. Thus, there is no irregularity in issuing the impugned show-cause notice and the same is in accordance of the provisions of the Annamalai University Act, 2013.

9. The Very contention of the writ petitioner is untenable on the ground that the resolution passed by the syndicate of the University has been approved by the Vice-Chancellor and accordingly, action was initiated to find out, whether all the 11 Assistant Professors, were appointed, not in accordance with the regulations of the University Grants Commission or not. Thus, there is no irregularity in respect of the impugned show-cause notice issued to the writ petitioner and it is for the writ petitioner defending his case, by availing the opportunities to be provided, by the University at the time of conducting inquiry, in accordance with law.

10. This Court is of an opinion that, if a posts of the Assistant Professors in a University is filled up with the persons, who are not possessing requisite educational qualifications, then the same goes to the root of the matter. The Assistant Professors are Teaching faculty in University and therefore, it is vital to verify the educational qualifications of such Assistant Professors, who all are appointed as faculties in the Universities. All such Assistant Professors must have the requisite educational qualifications in the manner prescribed under the Regulations of Universities Grants Commission. No deviation or irregularity is permissible in respect of the educational qualifications for the Post of Assistant Professors. The Universities and the competent

authorities, while undertaking the process of appointment to the posts of Assistant Professors in the college or University, are bound to follow the University Grants Commission regulations scrupulously and strictly.

11. The case of the respondent is that, the 11 Assistant Professors who were appointed by the Annamalai University management, were not qualified in accordance with the University Grants Commission regulations. On verification of the certificates, the Syndicate has raised certain doubts with reference to the regulations issued by the University Grants Commission and decided to issue show-cause notice to the concerned Assistant Professors, seeking their explanation in respect of the educational qualifications, acquired by them.

12. This being the very purpose and object of the impugned show-cause notice, this Court is of an opinion that the persons who are appointed to the post of Assistant Professors at any point of time, are bound to give explanation in respect of their educational qualifications acquired by them. Contrarily, they cannot be permitted to challenge the show-cause notice itself so as to escape from the clutches of law and to escape from all further actions in accordance with the University Grants Commission regulations regarding the educational qualifications.

13. From a reading of the writ petition, it is evident that the writ petitioner has filed the present petition challenging the show-cause notice in order to avoid all further proceedings. This Court cannot encourage such attitude of the writ petitioner, who is working as an Assistant Professor in the University. If the educational qualifications question by the competent authority, then the Assistant Professors must explain the manner in which they acquired the qualifications and the validity of the same with reference to the University Grants Commission regulations. Contrarily, the writ petitioner is now challenging the show-cause notice and thereafter, he will challenge the charge memo or other proceedings in order to prolong and protract the issue, so as to escape from the clutches of law. Such an attitude of the Assistant Professor can never be encouraged by the Courts and therefore, the Assistant Professor is bound to answer in respect of the questions raised by the competent authorities, with regard to the educational qualifications.

14. This Court would like to refer to the judgement of the Hon'ble Supreme Court of India rendered in the case of Annamalai University represented by the Registrar Vs Secretary to the Government & others reported in (2009) 4 SCC 590, Wherein the validity of the university Degrees were adjudicated by the Honorable Supreme Court stated that the, degrees obtained

obtained without under going the regular educational pattern of 10+2+3+2 are not a valid qualifications and all such degrees granted without undergoing the regular pattern of education, prescribed by the University Grants Commission, cannot be accepted for the purpose of public appointment. Thus, this Court is of an opinion that the writ petitioner's post of Assistant Professor cannot be construed as mere a public post. It is the specialized public post wherein the academic qualifications are very much relevant and important for the purpose of imparting education to the students, studying in the Universities and Colleges. Therefore, the person, who had undergone the higher education through regular course in a College or University alone are eligible for public appointment as Assistant Professors or Professor in the University or College. Even the persons who have studied in correspondence courses, cannot be made eligible for appointment to the post of Assistant Professor or Professor in College or University. Such those person, who had undergone the regular pattern of education through correspondence courses can be considered for the purpose of appointments in other Government Departments or Government organization for ministerial posts or administrative posts. However, such persons, who have undergone higher education in correspondence courses, can never be appointed as Assistant Professor or Professor or in any teaching faculty in the Universities or in colleges. In respect of colleges and universities, the persons, who have studied in the regular course in the regular college, alone should be considered for appointment and that is the very purpose and object of the University Grants Commission and the Act itself.

15. Under these circumstances that the Syndicate of the University found that, 11 Assistant Professors are not possessing the requisite educational qualifications as per the University Grants Commission regulations and passed the resolution to issue the impugned show-cause notice to them.

16. This Court is of an opinion that the writ petitioner is bound to answer the same instead of filing the present writ petition. No writ petition can be entertained against the show-cause notice in the routine manner.

17. Though the Learned Senior Counsel appearing on behalf of the writ petitioner urged that the Registrar has no power to issue the show-cause notice. This Court is of an opinion that, it was not the independent decision of the Registrar and the Registrar had just communicated the decision taken by the Syndicate of the University. Thus, the Registrar had acted as an administrative authority for the purpose of communicating the resolution passed by the syndicate of the University and therefore the contention raised by the writ petitioner in this

regard is untenable and deserves no consideration. This position was clarified through the Annamalai University Act itself.

18. Section 11 (4)(d) states that, the registrar has got powers to conduct the official correspondence of the Syndicate. The show-cause notice is an official correspondence issued by the Registrar based on the resolution passed by the syndicate. Thus, there is no irregularity in respect of the impugned order passed.

19. The second ground raised by the writ petitioner that there is no reference in respect of the resolution passed by the syndicate. This Court is of the opinion that the same will not vitiate the entire proceedings. Wrong quoting, non quoting or mis quoting of the provisions of the law will not defeat the very purpose of the Act in order to invalidate the proceedings issued by the administrative authority in this regard. Thus, a mere non quoting of the Syndicate Resolution in the show-cause notice would not repudiate the entire proceeding and therefore the ground raised in this regard is also deserves no consideration by this Court.

20. Intermittent, intervention in departmental proceedings are certainly not preferable. The authorities on initiation on such proceedings, by issuing show-cause notice, by conducting an inquiry, can never be stalled in a routine manner and such actions must be allowed to conclude and in all respects the same should reach a logical conclusion. The idea of the litigants against such proceedings are to prolong and protract the issues and it can never be encouraged by this Court. Thus, all such litigations filed in order to prolong and protract the proceedings by the competent authority must be dealt with accordance with law without causing any undue delay.

21. This being the opinion of this Court, the writ petitioner has not made out any valid acceptable ground for the purpose of the granting the relief. Thus, it is left open to the writ petitioner to submit his explanation/objection to establish the nature of the educational qualifications he acquired and it is for the competent authority to conduct an inquiry or conduct an investigation in this regard and proceed in accordance with law and by providing an opportunity to the writ petitioner also.

22. This being the principles to be followed, the writ petition is devoid of merits and stands dismissed. Consequently connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

pkn

To

The Registrar,
Annamalai University,
Annamalai Nagar,
Chidambaram - 608 002.
Cuddalore District.

+1cc to Mr.P.Raja, Advocate, S.R.No. 60426

+1cc to Mr. Issac Chambers, Advocate, S.R.No. 61136

W.P.No.7401 of 2017
and

W.M.P.No. 8057 of 2017

RSK (CO)
GN(01/10/2018)



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