

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.32299 of 2014
and
M.P.No.1 of 2014

Dr.B. Navaneethan

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Principal Secretary
Department of Higher Education,
Secretariat,
Chennai 600 009.
2. University Grants Commission,
rep. by its Chairman,
Bahadur Shah Zafar Marg,
New Delhi 110 002
3. National Council for Teacher Education,
rep. by its Chairman,
Hans Bhawan, Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi 110 002.
4. The Vice Chancellor,
Bharathiar University,
Coimbatore.
5. The Registrar,
Bharathiar University,
Coimbatore.
6. Dr. K.Murugavel,
Professor/Director,
Department of Physical Education,
Bharathiar University,
Coimbatore

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Quo Warranto to show cause

under what authority the respondent No.6 continuous to hold the office of the Professor/ Director, Department of Physical Education at Bharthiar University, Coimbatore, and made vide proceedings No.E1/613/2008 dated 12.01.2008 on the file of the Registrar, Bharathiar University, Coimbatore, the respondent No.5.

For Petitioner : Mr. Y.Prakash

For Respondents : Mr. Karthikeyan,
Government Advocate for R1

: Mr.P.R.Gopinath,
Standing Counsel for R2 & R3

: Mr.Selvam,for R6

: Mr. Mukund, for R4 & R5

O R D E R

This writ petition has been filed seeking a writ of Quo Warranto questioning the appointment of the sixth respondent as a Professor/Director, Department of Physical Education at Bharathiar University, Coimbatore.

2. The grievance of the petitioner is that the fifth respondent-University issued advertisement on 03.10.2007, inviting applications for appointment of several positions in various departments in Bharathiar University including the post of Professor/Director in the Department of Physical Education. According to the petitioner, the qualification for appointment of Professor/Director in the Department of Physical Education is fixed as per UGC and NCTE Norms. But, the fifth respondent University did not follow the UGC norms and appointed the sixth respondent, who has not possessed necessary qualification as per the norms prevailing on 12.01.2008. Hence, the present writ petition has been filed.

3. The fifth respondent University has filed a counter affidavit stating that the qualification has been fixed for the said post as per the UGC scheme. The relevant portion of the counter affidavit reads as follows :-

" Further , statute 5 A of the Bharathiar University Acts and Statutes authorises the University to modify the qualifications and by that powers the University has modified and prescribed the following qualifications

An eminent scholar with published work of high quality, actively engaged in research, with

10 years of experience in postgraduate teaching and /or experience in research at the University/National Level Institution, including experience of guiding research at doctoral level.

or

An outstanding scholar with established reputation who has made significant contribution to knowledge.

In exceptional cases, the the teachers with 15 years of UG teaching/research experience could also be considered ."

The sixth respondent, being an outstanding scholar having teaching experience of more than 15 years, was selected and appointed by the University. According to the 5th respondent, the sixth respondent himself a successful athlete and he had made several publications. One of the students trained by him has represented India in the 2000 Sydney Olympics and participated in the 100 M dash. He has also participated in the International and National Level Conferences and chaired 18 National Sessions and 2 Sessions in International Conferences. He has also published 3 books and 21 articles written by him were published in reputed sports journals. He has also organised several National Level Seminars. Apart from that, he has also organised several zonal and Inter-University Sports meets and trained State Level Athletes, apart from that, he is also a member of editorial Board of many sports journals. Considering his outstanding performance, he was appointed for the said post and there is no illegality in it. It is further submitted that, the petitioner has not even applied for the said post and hence, he cannot challenge the appointment of the sixth respondent. That apart, this writ petition has been filed, after 6 years of appointment of the said post. Hence, this writ petition is liable to be dismissed on the ground of laches also.

4. The sixth respondent filed a counter affidavit stating that he possessed required qualification and only after considering his qualification, he was appointed to the post of Professor/Director, Department of Physical Education.

5. The learned counsel appearing for the petitioner vehemently contended that as per the notification issued by the University, the qualification for the said post was fixed as per UGC and NCTE norms, whereas, the NCTE prescribed different qualifications and the sixth respondent is not qualified as per the NCTE Regulations. Hence, his appointment is contrary to the Regulations and he is not entitled for the said post.

6. The learned counsel appearing for the sixth respondent would submit that now the petitioner has been relieved from the post of Director and he is only working as a Professor. Hence, part of the prayer sought for by the petitioner has become infructuous and so far as the qualification prescribed by the NCTE is concerned, at the time of calling the application, the NCTE norms did not come into force, and the respondent-University has only followed the UGC norms and considering the outstanding performance of the sixth respondent, he has been appointed.

7. I have considered the rival submissions and perused the materials available on record.

8. Admittedly, the petitioner did not apply for the post of Professor/Director and the appointment was made in the year 2008 and after a lapse of 6 years, this writ petition has been filed and there is no proper explanation for the delay in filing this writ petition. That apart, it is now submitted that now the petitioner is relieved from the post of Director and he is not holding the said post. So far as the appointment of the petitioner as Professor is concerned, the contention of the petitioner is that the petitioner does not possess the prescribed qualification prescribed by the National Council for Teacher Education (NCTE) Regulations.

10. From the perusal of the records, it could be seen that the NCTE Regulations had come into force only on 10th December 2007. Even before that, the applications were called for by the fifth respondent University on 03.10.2007 and on the date of calling for applications and appointments, the NCTE Regulations are not in force. Hence, the petitioner cannot claim that the fifth respondent did not follow the NCTE regulations. Further, it is an admitted fact that the University has followed the norms fixed by the UGC and also after considering various academic and other extra curricular activities of the sixth respondent, he was appointed as Professor. Therefore, I find no illegality in the said appointment. Hence, the prayer sought for by the petitioner cannot be granted and the writ petition is liable to be dismissed.

11. Accordingly, this writ petition is dismissed No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

1. The Principal Secretary, State of Tamil Nadu,
Department of Higher Education,
Secretariat, Chennai 600 009.
 2. The Chairman,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi 110 002
 3. The Chairman, National Council for Teacher Education,
Hans Bhawan, Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi 110 002.
 4. The Vice Chancellor,
Bharathiar University, Coimbatore.
 5. The Registrar,
Bharathiar University, Coimbatore.
- +1 cc to M/s.D.Selvam, Advocate SR.No.88745
+1 cc to M/s.Sarvabhauman Associates, Advocate Sr.No.88071

W.P.No.32299 of 2014

RGN (CO)
CSL/08.02.2019

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