

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018

CORAM

THE HONOURABLE **MR.JUSTICE R.MAHADEVAN**

W.P.No.14768 of 2017

and

WMP.No.16012 of 2017

A.Clement

... Petitioner

Vs

1.The University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi – 110 002.

2.The Joint Secretary (NITs & DL
Department of Higher Education,
Shastri Bhavan, New Delhi – 110 001.

3.Saveetha University,
Thandalam, Chennai – 602 105
rep. by its Vice Chancellor.

4.The Controller of Examination,
Saveetha University,
Thandalam, Chennai – 602 105.

5.The Saveetha School of Engineering,
Saveetha University,
Chennai – 600 077.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the Controller of Examination, the fourth respondent herein to send the final dissertation/thesis submitted by the petitioner to the paneled examiner provided by the

Guide, as per the UGC guide lines for evaluation and award Ph.D by conducting Vivo Voce examination as the petitioner has completed all the formalities as per the guidelines of the UGC and as per the pro-forma submitted by the 3rd respondent for awarding Ph.D as the petitioner is the deserving candidate, in the interest of justice and equity.

For Petitioner : Mr.V.Jayachandran
 For R1 : Mr.P.R.Gopinathan
 For R2 : Mr.K.Ramanamoorthy
 For R3 to R5 : Mr.P.Aravind Pandian, SC
 for Mr.S.Saravanan

ORDER

The petitioner has come up with this writ petition for a mandamus, directing the fourth respondent to send the final dissertation/thesis submitted by him to the paneled examiner provided by the Guide for evaluation, as per the UGC guidelines and award Ph.D by conducting Vivo Voce examination.

2.Succinctly stated the facts of the case are that the petitioner has applied for registration of his candidature for Ph.D. Course in the third respondent college. After getting admission, he has selected the topic "Equipping English Teachers to Train Engineering Students for Employability" and also selected one Dr.T.Murugavel, Professor and

Head of the Department of English, Sri Venkateshwara College of Engineering, Sriperumbudur as his guide. He presented his research objectives, which were approved by the Research Committee. Subsequently, he appeared and presented the work progress of his research and published his research papers in Scopus Indexed Journals. After successful completion of the research work, he submitted the synopsis and a rough draft of dissertation/thesis on 15.03.2016. Following the same, synopsis meeting was held on 28.03.2016, in which, professors from different departments and research department officials, made suggestions/recommendations on the synopsis. Thereafter, the petitioner submitted 6 hard copies of the final dissertation/thesis along with soft copy in a Compact Disc to the research development on 01.07.2016 by paying necessary fee, so as to enable the fourth respondent to send the same for evaluation by at least two external examiners within a reasonable time limit. However, the third respondent has not sent the dissertation/thesis for evaluation and kept it as pending. After six months, the fourth respondent sent a letter dated 28.12.2016 informing that the thesis was returned to the research department as per the suggestions and comments of the Vice Chancellor, which was received by the petitioner along with the Vice Chancellor's comments on the synopsis, on 05.01.2017. Feeling

aggrieved over the same, the petitioner has come forward with this writ petition for the above stated relief.

3.The learned counsel for the petitioner submitted that the petitioner has incorporated all the suggestions and recommendations made by the Research Committee in the synopsis meeting and submitted the final thesis along with necessary fees, which was duly accepted by the fifth respondent on 01.07.2016. However, without sending the same for evaluation, the fourth respondent has unnecessarily kept the same pending, for the reasons best known to them, which is against the guidelines of the first respondent. According to the learned counsel, without any authority, the Vice Chancellor, who is a Civil Engineer by qualification, made comments on another subject area of the petitioner i.e., English language teaching, which is bad in law.

4.The first respondent has filed a detailed counter affidavit *inter alia* stating that the University Grants Commission, in exercise of the powers conferred by clause (e) & (g) of sub section (1) of Section 26 of University Grants Commission Act, 1956 (3 of 1956), had made the Regulations, viz., University Grants Commission (Minimum

Standards and Procedure for award of M.Phil/Ph.D Degree) Regulations, 2009. As per the said Regulations, the Evaluation and Assessment Methods are that as follows:

- Upon satisfactory completion of course work and research methodology, which shall form part and parcel of M.Phil/Ph.D programme, the M.Phil/Ph.D scholar shall undertake research work and produce a draft thesis within a reasonable time, as stipulated by the institution concerned.
- Prior to submission of the thesis, the student shall make a pre-M.Phil/Ph.D presentation in the department that may be open to all faculty members and research students, for getting feedback and comments, which may be suitably incorporated into the draft thesis under the advice of the supervision.
- Ph.D candidates shall publish one research paper in a referred journal before the submission of the thesis/monograph for adjudication and produce evidence for the same in the form of acceptance letter or the reprint.
- The thesis produced by the M.Phil/Ph.D student in the Institutions/Departments and submitted to the University, Institution, Deemed to be University, College/Institution of National importance, as the case may be, shall be evaluated by

at least two experts, out of which at least one shall be from outside the State. It shall be upto the University, Institution, Deemed to be University, College/Institution of National Importance concerned to have one examiner from outside the Country.

It is further stated therein that as the third respondent, Saveetha University is declared as a Deemed to be University under Section 3 of the UGC Act, 1956, they are duty bound to strictly adhere to the Regulations mentioned therein both in letter and spirits.

5. Denying the averments made in the affidavit filed in support of the writ petition, the contesting respondents 3 to 5 filed a detailed counter affidavit, wherein, it has been stated as follows:

- The thesis submitted by the scholar is clouded by suspicion in the matter of data collection. It also failed in the plagiarism test, as the similarities have been found therein to the extent of 29% which is against the University standard and the University allows a maximum of 15% similarities to pass the plagiarism test. Therefore, the quality and the authenticity of the thesis is highly questionable.

- The Rules of the institution provide that the Vice chancellor shall be the Principal and Executive officer of the institute and shall exercise general supervision or control over the affairs of the institute. Therefore, the Vice chancellor is empowered to intervene at any point of time, if he feels that something is wrong.
- The Vice Chancellor, while going through the synopsis submitted by the scholar, found certain serious and glaring mistakes and recorded the same at the relevant pages and directed the fourth respondent to return it to the scholar for incorporating the corrections, modifications and revisions, which act of the Vice chancellor cannot be considered as violation of any Regulation and rejection of the thesis at any stretch of imagination.
- As a genuine Research scholar, the petitioner should have realized the shortcomings pointed out, rectified the same and re-submitted the thesis to the University, instead of converting an academic exercise into a subject matter of litigation which only results in delaying the process.

6.Reiterating the averments made in the counter affidavit, the learned Senior Counsel for the contesting respondents 3 to 5

submitted that the process of getting the consent from the Examiners could not be initiated, as the Synopsis submitted by the petitioner contained serious defects and the Vice Chancellor considered it appropriate to suggest modifications and improvements to be made in the thesis submitted by the petitioner before sending it to the examiners for evaluation. Without doing the same, the petitioner has approached this Court with this writ petition. The learned Senior Counsel further submitted that had the petitioner taken the suggestions/recommendations in the right spirit, further process could have been completed by the time, whereas the non-cooperative and adamant attitude of the petitioner would only delay the process of sending the final thesis for evaluation. The learned Senior counsel also submitted that it was the earnest intention of the respondent University that the thesis submitted by the petitioner should be devoid of any defects and shortcomings, as it will have a bearing on the academic excellence or academic standards maintained by the respondent University, which cannot be termed as illegal or arbitrary.

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7.By way of reply, the learned counsel for the petitioner submitted that the research work of the petitioner is very clear and his methodology is appreciated world wide. The scholars comments are

available in the internet and the same is open to everybody's access. With regard to the theory of plagiarism, the learned counsel submitted that the same is introduced after filing of this writ petition. With the best available software i.e., TURNITIN, to check the plagiarism, the petitioner's research work is below 10% and if there is any plagiarism, an expert on the subject alone would certify the same.

8. Heard Mr.V.Jayachandran, learned counsel for the petitioner, Mr.P.R.Gopinathan, learned Standing Counsel for the first respondent, Mr.K.Ramanamoorthy, learned counsel for the second respondent and Mr.P.Aravind Pandian, learned Senior Counsel representing Mr.S.Saravanan, learned counsel for the respondents 3 to 5 and also perused the affidavit, counter, rejoinder and reply to the rejoinder and the documents filed in the form of typed set of papers by the respective parties.

9. There is no dispute upto the stage of the presentation of synopsis by the petitioner. What was disputed in this case is, according to the contesting respondents, the comments/recommendations made in the synopsis meeting were not incorporated by the petitioner in the final thesis, which defects were also pointed out by the Vice chancellor

of the University, whereas, the same is stoutly denied by the petitioner, stating that the relevant suggestions and recommendations pointed out in the synopsis meeting were meticulously incorporated by the petitioner in the final thesis and the final thesis was submitted along with submission fee of Rs.30,000/-, which was also accepted by the fifth respondent on 01.07.2016 to be sent for evaluation as per the UGC guidelines.

10. At the first blush, such a factual dispute cannot be gone into by this Court in exercise of powers conferred under Article 226 of The Constitution of India besides that this Court cannot assess or ascertain as to whether the final thesis submitted by the petitioner is strictly in conformity with the suggestions or recommendations made by the contesting respondents. Therefore, irrespective of the rival submissions, this Court, in order to meet the ends of justice, deems it appropriate to direct the fourth respondent to send the final thesis submitted by the petitioner to the paneled examiners i.e., one from outside the Country and another from outside the State, already provided by the Guide, as per the UGC guidelines, for evaluation within a period of two weeks from the date of receipt of a copy of this order and thereafter, conduct Vivo Voce examination

under video recording, if so advised, as a special case and award Ph.D degree to the petitioner, on merits and in accordance with law, within a period of four weeks thereafter.

11.This writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

20.02.2018

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Index: Yes

To

1.The University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi – 110 002.

2.The Joint Secretary (NITs & DL)
Department of Higher Education,
Shastri Bhavan, New Delhi – 110 001.

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R.MAHADEVAN, J.

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