

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL NO.1221 OF 2018

J U D G M E N T
(*Per Sri Justice Sanjay Kumar*)

The unsuccessful petitioner in W.P.No.5066 of 2017 is the appellant. His prayer therein was to declare that the constitution of the Selection Committee by the English and Foreign Languages University, Hyderabad (*for brevity*, 'the University'), for effecting promotion to the post of Professor in Translation Studies was not in accordance with Regulation 5.1.3 read with Regulation 5.1.2 framed by the University Grants Commission (UGC). A consequential direction was sought to the University to hold a fresh selection by constituting a proper Selection Committee. By order dated 09.08.2018, a learned Judge of this Court dismissed the said writ petition. Hence, this appeal.

The appellant-petitioner entered the service of the University as a Lecturer in the year 2009 and is presently working as an Associate Professor in the Department of Translation Studies. He attained eligibility for promotion as a Professor in the year 2013. As per the prevailing Career Advancement Scheme, the University called for applications in 2013 for the posts of Professors in various departments. The Career Advancement Scheme Screening Committee recommended the case of the appellant-petitioner and he was called for an interview. For this purpose, the University had to constitute a Selection Committee in terms of the UGC Regulations titled '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'. Regulation 5.1.3 therein states that the composition of the Selection Committee for the post of Professor in a University shall be similar in composition as that for the post of Associate Professor.

Regulation 5.1.2, dealing with an Associate Professor, reads as under:

'(a) The Selection Committee for the post of Associate Professor in the University shall have the following composition:

1. Vice Chancellor or Acting Vice Chancellor to be the Chairperson of the Selection Committee.

2. An academician who is the nominee of the Visitor/Chancellor, wherever applicable.

3. Three experts in the concerned subject/filed nominated by the Vice Chancellor out of the panel of names approved by the relevant statutory body of the university concerned.

4. Dean of the faculty, wherever applicable.

5. Head/Chairperson of the Department/School.

6. An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories is the applicant, to be nominated by the vice Chancellor, if any of the above members of the selection committee do not belong to that category.

(b) At least four members, including two outside subject experts, shall constitute the quorum.'

It may also be noted that as per Statute 18 of the Statutes of the University, dealing with Selection Committees, a Selection Committee for making appointment to the post of Professor has to include three persons not connected with the University, nominated by the Vice-Chancellor out of a panel approved by the Academic Council for their special knowledge or interest in the subject with which the Professor will be concerned.

The appellant-petitioner was issued a call letter on 20.01.2017 by the University requiring him to attend the interview scheduled to be held on 27.01.2017. After appearing for the interview, he claimed that he realized that the constitution of the Selection Committee was not in accordance with Regulation 5.1.2 as the Head/Chairperson of the Department of Translation Studies was not a member of the Committee.

Further, nomination of three experts by the Vice-Chancellor was also not proper as there was no panel of experts approved by the relevant statutory body of the University. He also pointed out that Professor D.Venkat Rao was a member of the Selection Committee but he did not fit into any of the categories in Regulation 5.1.2. It was on these grounds that he filed the writ petition prior to announcement of the result.

By order dated 15.02.2017 passed in the writ petition, a learned Judge of this Court directed the University not to announce the result in so far as the post of Professor, Department of Translation Studies, was concerned.

The University filed a counter-affidavit through its Registrar, wherein it conceded that Professor H.Lakshmi, Head of the Department of Translation Studies, did not participate in the Selection Committee proceedings. According to the Registrar, she was nominated as a member of the Selection Committee but by letter dated 24.01.2017, she informed the Vice-Chancellor that she was unable to participate in the Selection Committee meeting due to a medical emergency involving her mother. It was in these circumstances that the Vice-Chancellor was stated to have nominated Professor D.Venkat Rao as a member of the Selection Committee in the place of Professor H.Lakshmi, Head of the Department. The nomination of this Professor by substitution was sought to be justified by the Registrar by relying on Section 42 of the English and Foreign Languages University Act, 2006. This provision states that no suit or other legal proceeding would lie against any officer or other employee of the University for anything which was done in good faith or intended to be done in pursuance of the provisions of the Act, the Statutes or the Ordinances. Reliance was also placed by the Registrar upon Regulations

12 and 13 of the University Regulations which provide guidelines for drawing up the panel of experts for Selection Committees. Regulation 12(12) provides that a panel of experts should be reported to the Academic Council confidentially while Regulation 12(13) empowers the Vice-Chancellor to add or delete names of experts before the panel is approved by the Academic Council.

Perusal of the order under appeal reveals that the learned Judge accepted the plea of the University in the counter that nomination of the three experts was done as per Regulations 12(12) and 12(13) and that the Vice-Chancellor had added a few names to the panel of experts before the same was approved by the Academic Council prior to the interviews. In consequence, the learned Judge opined that the complaint of the petitioner did not merit consideration and dismissed the writ petition.

While so, I.A.No.1 of 2018 was filed by the appellant-petitioner in the present appeal seeking leave to file additional documents. In the affidavit filed in support of this I.A., he stated that the learned counsel for the University had produced the Minutes of the 10th Academic Council meeting held on 09.09.2016 before the learned Judge and alleged that Item 15 in the said Minutes had been purposefully added to mislead this Court as if the Academic Council had approved the panel of experts. He sought leave to place before the Court copies of the two sets of Minutes obtained by him so as to substantiate this allegation. The I.A. is ordered and the additional material is taken on record.

Be it noted that para 12 of the counter-affidavit filed in the writ petition by the Registrar of the University specifically mentioned the Minutes of the Academic Council finalizing the panel members list which was then stated to have been approved by the Executive Council before

commencement of the Career Advancement Scheme interviews. In para 14, the Registrar further stated that the Vice-Chancellor had added a few names and the final panel of experts was duly approved by the Academic Council and the Executive Council of the University well before the Selection Committee interviews. The Registrar also asserted that the subject experts were appointed from the list of names in the approved panel and that there was no violation of procedure as alleged.

Sri Vedula Srinivas, learned counsel for the appellant-petitioner, would point out that the Agenda of the 10th Academic Council meeting, scheduled to be held on 09.09.2016, indicated that there were only 14 items for discussion. He would further point out that Item 14 was wrongly shown as Item 15 in the Agenda. Learned counsel would also point out that there was no item amongst these 14 items with regard to approval of the panel of experts. However, another set of Minutes of the 10th Academic Council meeting held on 09.09.2016 was produced by the appellant-petitioner. Perusal thereof indicates that the very same 14 Agenda items which find mention in the other set of Minutes were replicated therein with a much shorter discussion. But, surprisingly, Item 15 was also included in these Minutes. It reads as under:

‘Item 15

Reported Item with Confidentiality

Reported and approved consolidated panel of Subject Experts for faculty Selection of the University.

The meeting ended with a vote of thanks from and to the Chair.’

Both sets of Minutes were signed by Mr.Satyanand Rao, Registrar I/C Secretary, and Professor Sunaina Singh, Vice Chancellor Chairperson.

In the light of this contradictory material produced by the appellant-petitioner, the learned counsel for the University was directed to

produce the entire record and more particularly, the original record pertaining to the 10th Academic Council meeting held on 09.09.2016. This order was passed on 18.09.2018. The matter was again adjourned on 25.09.2018 for production of the said record.

On 04.10.2018, Dr.P.B.Vijay Kumar, learned counsel for the University, fairly conceded before the Court that neither of the Minutes produced by the appellant-petitioner was available, in original, in the records of the University. He would state that a photocopy of one of the said Minutes is available but there is no proper record of the panel approval by the Academic Council in the meeting held on 09.09.2016.

Though the present incriminating material was not produced in the writ petition and the learned Judge trustingly accepted what was stated by the University in its counter, the issue was very much in focus as the appellant-petitioner had categorically asserted that the experts in the Selection Committee were not nominated in accordance with the due procedure. Therefore, though this material is produced for the first time only in this appeal, we are inclined to accept the same and act upon it. All the more so, when it is now conceded by the University that there is no record to support what was stated by the then Registrar in the counter-affidavit filed in the writ petition, leading to its dismissal.

It is no doubt true that while dealing with matters relating to academic bodies, Courts would normally be very slow to interfere as issues falling within the jurisdiction of educational authorities should ordinarily be left to their own wisdom (*see* PRINCIPAL, PATNA COLLEGE, PATNA, V/ s. KALYAN SRINIVAS RAMAN¹, BOARD OF HIGH SCHOOL AND INTERMEDIATE EDUCATION, U.P.,

¹ AIR 1966 SC 707

ALLAHABAD V/ s. BAGLESHWAR PRASAD², PREM PARKASH KALUNIYA V/ s. PUNJAB UNIVERSITY³, KRISHNA PRIYA GANGULY V/ s. UNIVERSITY OF LUCKNOW⁴ NEELIMA MISRA V/ s. HARINDER KAUR PAINTAL⁵ and BASAVAI AH (DR) V/ s. DR.H.L.RAMESH⁶).

However, the sad reality is that most academic/educational bodies are no longer worthy of the respect and regard that the aforestated decisions extended to them. The case on hand is a prime example. The English and Foreign Languages University, Hyderabad, a well-known and reputed University, concedes before this Court that its records are not in order. Further, the material produced by the appellant-petitioner clearly shows that all was not well with the Academic Council meeting held on 09.09.2016. Even if Item 15 relating to approval of the panel of subject experts was to be kept confidential, it would only mean that the material relating to the said item would not be circulated to the members of the Academic Council before hand but the item had to be included in the Agenda for the purpose of record and for maintaining transparency. Further, the two sets of Minutes, one with this Agenda item and one without, demonstrate beyond doubt that there was mischief afoot. We are now informed that neither the Vice-Chancellor nor the Registrar remains the same as on date. We can only hope that administration of the University would take a turn for the better under the new incumbents. In any event, it is manifest that constitution of the Selection Committee, in so far as the appellant-petitioner is concerned, was not in accordance with

² AIR 1966 SC 875

³ AIR 1972 SC 1408

⁴ (1984) 1 SCC 307

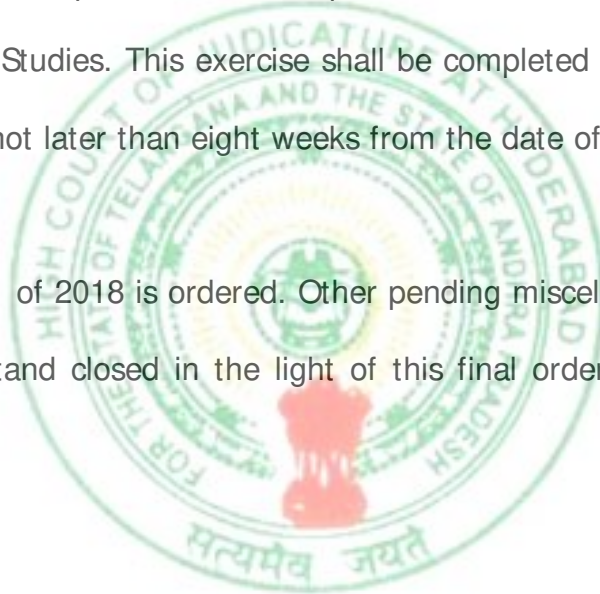
⁵ (1990) 2 SCC 746

⁶ (2010) 8 SCC 372

the norms. The lack of transparency in the University's records is more than sufficient to draw an adverse inference in this regard.

The writ appeal is accordingly allowed setting aside the order under appeal and the Selection Committee proceedings dated 27.01.2017, in so far as they pertain to the appellant-petitioner. Keeping in mind the fact that the appellant-petitioner was eligible for promotion under the Career Advancement Scheme as long back as in the year 2013, the University is directed to constitute a fresh Selection Committee strictly in accordance with norms and subject him to a selection interview afresh for considering his candidature for promotion to the post of Professor in the Department of Translation Studies. This exercise shall be completed expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order.

I.A.No.1 of 2018 is ordered. Other pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

12th OCTOBER, 2018
PGS