IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.3681 of 2010

Dr.V.Devadas ... Petitioner

Vs.

1. Union of India, rep.by its
   Secretary, Ministry of
   Human Resources Development,
   Department of Higher Education,
   Shastri Bhavan,
   New Delhi - 110 001.

2. The Registrar,
   Indian Institute of Technology-Madras,
   Guindy, Chennai - 36.

3. Dr.Sudhir Chella Rajan,
   Professor,
   Department of Humanities,
   and Social Sciences,
   Indian Institute of Technology-Madras,
   Guindy, Chennai - 36. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to cancel the appointment of the third respondent as Professor, Department of Humanities and Social Science, Indian Institute of Technology-Madras, Chennnai and to select the petitioner as Professor on merit.

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For Petitioner : Mr.Soundara Pandian
For C.S.Associates

For R1 : Mr.J.Madhana Gopal Rao
Senior Panel Counsel

For R2 : Mr.Menon Karthik Mukundan

R3 - Served
No Appearance

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ORDER

This Writ Petition has been filed seeking for a direction, directing the second respondent to cancel the appointment of the third respondent as Professor, Department of Humanities and Social Science, Indian Institute of Technology-Madras, Chennai and select the petitioner as Professor on merit.

2. The petitioner submitted that he acquired M.A. (Rural Development) in 1984, M.Phil. (Micro Level Planning) in 1986, Ph.D. (Development Planning) in 1994 and M.A. (Economics) in 1998. He started his career on 10.05.1996 as Assistant Professor in the Department of Architecture and Planning and had been taking classes to the Post Graduate students in Planning (Development Planning). Thereafter, he was selected as Associate Professor (Planning) on merit in the state institute on 04.04.2005 and had been taking classes for the students who were doing Master Degree in Urban and Rural Planning (which is equal to M.Tech. Degree in Indian Institute of Technology).

3. The petitioner also submitted that the second respondent called for applications to fill up the post of Professor in the Department of Humanities and Social Sciences on 01.11.2007, to which, the petitioner has also applied under O.B.C. Category and was attended the interview which was conducted on 30.10.2008. However, he was not selected and the third respondent herein has been appointed as Professor in August 2009. The petitioner tried his level best to get the copy of his appointment order, but, he could not get it and therefore, he applied under Right to Information Act at last, for which, he received a reply on 28.10.2009 from the respondent that it relates to the personal information, which has no relationship to any public activity or interest and the information called for would cause unwarranted invasion of the privacy of individual candidate and hence, the information is exempted from disclosure.

4. The petitioner further submitted that as per the advertisement, the qualification required is Ph.D with the preceding degree in the appropriate branch with consistently good academic record throughout with minimum of 10 years experience in teaching. Ph.D degree is conferred not in generality in one of the specialty alone. The petitioner's specialization in Ph.D. comes under Development Studies under Social Science and he has got exhaustive qualification, awards and research experience in various organizations. Further, he has produced 10 Ph.D. degrees and two Ph.D. scholars who were working under his guidance and has successfully guided more than a dozen Master Degree thesis, which is equivalent to M.Tech. Degrees. Besides, the petitioner has published more than 60 Research Publications, in which, more than 12 papers in Foreign Journals and more than half a dozen in Indian Journals and rest

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of them are in International/National Conferences.

5. The petitioner also submitted that at the time of calling for interview, he sought for the details about the third respondent, but, the second respondent has refused to give as there were only 2 candidates including the petitioner. After selection, the petitioner applied for copy of the appointment order as stated above and the respondent refused to give. Thereafter, the petitioner came to know by research through the website that the third respondent has got research interest in six areas and he has published 10 publications under the heading of recent publications, whereas, the petitioner has published more than 60 publications, in which, foreign publications alone are 15. Hence, the selection and appointment of the third respondent as Professor is per se arbitrary and illegal, and sought for setting aside the same.

6. Denying the allegations of the petitioner, the second respondent has filed a counter affidavit, wherein, it has been stated that the petitioner had participated in the selection process, but came out unsuccessful. In such circumstances, he cannot turn around and question his non selection, as the Hon'ble Supreme Court have consistently held that after participation, the unsuccessful candidate does not have locus-standi to question his non selection or the selection made in favour of any other person. Further, it has been stated that pursuant to the advertisement issued by the second respondent for filling up the post of Professor in the Department of Humanities and Social Sciences, the petitioner and the third respondent had applied. The Selection Committee which had been constituted in accordance with the relevant statutes governing the appointments, considered the relative merit of the candidates who had applied for appointment. The Committee, consisting of academicians, assessed objectively the qualifications and experience of the candidates. Upon such assessment which was made after taking into consideration all relevant factors, the Selection Committee recommended the name of the third respondent for appointment as Professor. Therefore, the petitioner cannot be said that the Selection to the post of Professor has not been done in accordance with the statutes applicable for such appointment. Hence, sought for dismissal of this Writ Petition.

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7. Heard the learned counsel for the petitioner and the learned counsel for the respondents, and perused the materials available on record.

8. It is seen that the second respondent had called for the applications to fill up the post of Professor in the Department of Humanities and Social Sciences on 01.11.2007 and the

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petitioner also applied for the same as he had sufficient qualification for the said post. After the interview conducted on 30.10.2008, the petitioner claim has been rejected and the third respondent has been appointed to the said post and therefore, the petitioner is before this Court.

9. As per Section 8(1)(j) of the Right to Information Act, the information sought for by the petitioner regarding details of the appointment and order of the third respondent, which is a personal one and has no relationship to any public activity or interest and would cause unwarranted invasion of the privacy of individual candidate. Therefore, the respondent has rightly denied the same.

10. Admittedly, the Section Committee has been constituted by the experts and after approval of the Board of Governors of IIT, Madras. This Court cannot go into the question whether the members of the Section Committee are qualified to select a candidate for the post of Professor in the Department of Humanities and Social Sciences. However, the petitioner being failed in the interview and could not succeed, cannot raise a question whether the Selection Committee had been properly constituted, and to seek for the details regarding the members of the Committee. Further, the petitioner's contention that after selection, he came to know about the third respondent qualification through the website that his proficiency is less than the petitioner cannot be accepted, as it is only a website information and not an authenticated record issued by the competent authority of the department concerned.

11. It could be seen that the Committee which had selected the third respondent to the post of Professor consisted of expert academicians who objectively assessed the experience, and qualifications of both the petitioner and the third respondent had selected the third respondent to the said post based on his performance and there was no malafide in the said appointment. However, it would be appropriate for this Court to refer the Judgment relied which is reported in (2010) 8 SCC 372 in the case of [Basavaiah (Dr.) Vs. Dr.H.L.Ramesh and Others], wherein, it has been observed as follows:-

> "38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the Courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the Courts to leave the decisions to the academicians and experts. As a matter of principle, the Courts

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> should never make an endeavour to sit in appeal over the decisions of the experts. The Courts must realise and appreciate its constraints and limitations in academic matters."

12. In view of the above Judgment, the Courts have a very limited role particularly when no malafides have been alleged against the experts constituting the Selection Committee and it should never make an endeavour to sit in appeal over the decisions of the experts. So when this being the legal position, this Court is not inclined to interfere with the decision of the Selection Committee who had selected the third respondent and not selected the petitioner. The prayer to cancel the appointment of the third respondent as against the decisions of the experts is also declined.

13. Hence, in view of the above facts and circumstances, as devoid of any merits, Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

raja

To

1. The Secretary,
   Union of India,
   Ministry of Human Resources Development,
   Department of Higher Education,
   Shastri Bhavan,
   New Delhi - 110 001.

2. The Registrar,
   Indian Institute of Technology-Madras,
   Guindy, Chennai - 36.

3. The Professor,
   Department of Humanities,
   and Social Sciences,
   Indian Institute of Technology-Madras,
   Guindy, Chennai - 36.

+1cc to Mr.Karthik Mukundan, Advocate SR.No.26088

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MR(CO)
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