

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.02.2019**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

AND

THE HONOURABLE MR.**JUSTICE P.D.AUDIKESAVALU**

W.A.Nos.488 and 489 of 2019

W.A.No.488 of 2019

The Tamil Nadu Dr.Ambedkar Law University,
No.5, Greenways Road,
Chennai 28
represented by its Registrar ... Appellant
versus

1.Dr.D.Sankar

2.Dr.P.Vanangamudi

3.The Director,
Directorate of Legal Studies,
Purasaiwalkkam High Road,
Kilpauk,Chennai 10 ... Respondent

Appeal filed against the order passed by this Court dated 01.02.2019
passed in W.P.No.25998 of 2015

For appellant : Mr.Vijay Narayan, Advocate General
for Mr.V.Vasanthakumar

For Respondents : Mr.Niranjana Rajagopal,
for 1st respondent

Mr.S.Lakshmanasamy,
for 2nd respondent

W.A.No.489 of 2019

Dr.T.S.N.SASTRY ... appellant

Vs

1 D.SANKAR

2 THE TAMIL NADU DR. AMBEDKAR LAW UNIVERSITY
NO.5 GREENWAYS ROAD, CHENNAI 28.

3 DT. P.VANANGAMUDI ... respondents

Appeal filed against the order passed by this Court dated 01.02.2019 in so far as it pertains to impleading of the appellant as a party to the Writ Petition in W.P.No.25998/2015.

For appellant : Mrs.Chitra Sampath, Senior Counsel,
for Mr.A.K.Rajaraman

For Respondents : Mr.Niranjan Rajagopal,
for 1st respondent

Mr.Vijay Narayan, Advocate General
for Mr.V.Vasanthakumar
for 2nd respondent

COMMON JUDGMENT

Introductory :-

The legality of the order expanding the scope of a Writ Petition by giving it the flavour of public interest is the core issue raised in the intra court appeals, at the instance of the Tamil Nadu Dr.Ambedkar Law University and its Vice Chancellor in his personal capacity.

2. The Tamil Nadu Dr.Ambedkar Law University has come up with the intra court appeal in W.A.No.488 of 2019 with a grievance that the learned Single Judge exceeded the brief and expanded the scope of a simple Writ Petition filed by a faculty member into a Public Interest Litigation.

3. The intra court appeal in W.A.No.489 of 2019 is at the instance of the Vice Chancellor of Tamil Nadu Dr.Ambedkar Law University and the challenge is to the order dated 1 February 2019, impleading him as a party to the Writ Petition, describing him as a Professor in Law, without there being a properly filed Writ Petition challenging his appointment as Vice Chancellor.

4. The common contention in both the appeals relates to the conversion of a simple Writ Petition filed by the first respondent challenging the proceedings dated 12 August 2015, making a reference to the University Grants Commission to decide his eligibility to hold the post of Professor in Law, into a public interest litigation, without placing it before the roster Bench.

Brief facts:-

5. The first respondent filed a Writ Petition in W.P.No.25998 of 2015, challenging the proceedings dated 12 August 2015 on the file of the Vice Chancellor, Tamil Nadu Dr.Ambedkar Law University, which states that the findings given by the High Level Committee in relation to counting his past service were not on the basis of relevant materials and resolving to refer the matter to the University Grants Commission to clarify the question of his eligibility to hold the post of Professor of Criminal Law and Criminal Justice Administration in the Law University.

6. The then Vice Chancellor, who was the author of the proceedings dated 12 August 2015 was impleaded in his personal capacity in the Writ Petition as second respondent.

7. The second respondent completed his tenure and appears to have made application for appointment as Vice Chancellor once again. However, he was not selected. The Chancellor of the University appointed Dr.T.S.N.Sastry, the appellant in W.A.No.499 of 2019 as the new Vice Chancellor.

8. The second respondent after his term as Vice Chancellor, filed a counter affidavit in W.P.No.25998 of 2015, contending that some of the Professors/ Lecturers/ Assistant Professors were not eligible even to apply for the post which they are presently occupying in the Law University.

9. The learned Single Judge appears to have passed series of orders to probe into the question of eligibility of the teachers to hold the post, notwithstanding the fact that the issue in the Writ Petition relates only to an adverse order passed against the first respondent herein.

10. The learned Single Judge passed the impugned order dated 1 February 2018, impleading the present Vice Chancellor and 30 members of the faculty and two Assistant Librarians as parties. Feeling aggrieved by

the said order, the Law University and its Vice Chancellor are before this Court.

11. It is the common contention of the parties before us that the order is bad in law and is without jurisdiction. According to the appellants, there is no provision to keep the Writ Petition part heard after the change of roster and that hearing the matter earlier and passing series of orders cannot be a reason to keep the matter with the learned Judge, even after the change of roster. It is also the contention that it is not within the jurisdiction of a learned single Judge to entertain a matter which is in the nature of a Public Interest Litigation. According to the appellants, when there is no challenge to the appointment of the faculty members or the Vice Chancellor, the learned Single Judge was not correct in impleading the teachers and Vice Chancellor and dragging them to the Court unnecessarily.

12. The Registrar in-charge, Tamil Nadu Dr.Ambedkar Law University in the Memorandum of Grounds of Appeal, alleged that the learned Judge is acting according to his whims and caprice by issuing continuous Mandamus beyond the subject matter of the Writ Petition. Since the Registrar in-charge, the appellant in W.A.No.498 of 2019 used intemperate language and made certain comments undermining the dignity of the Court, we issued notice of contempt to show as to why action should

not be taken against her. The Registrar in-charge filed an affidavit dated 15 February 2019 tendering unconditional apology. We accepted the apology and by order dated 18 February 2019, relieved her from further proceedings.

Submissions :-

13. The learned Advocate General appearing for the Law University took us through various proceedings and cited our attention to the circumstances that led to the suspension of the first respondent and the conduct of enquiry by the Committee appointed by the Syndicate of the University. According to the learned Advocate General, the first respondent was also an applicant for appointment to the post of Vice Chancellor of the Law University along with the second respondent. The second respondent after his appointment initiated disciplinary proceedings against the first respondent on the basis of a complaint preferred by a moffussil Advocate alleging that he was ineligible for appointment to the post of Professor in law. The Vice Chancellor suspended the first respondent from the post of Registrar. According to the learned Advocate General, the Committee presided over by the Hon'ble Mr. Justice S. Jagadeesan reported that the first respondent is fully qualified. The Vice Chancellor without placing the report before the Syndicate, referred the matter to the University Grants commission for clarification. The learned Advocate General fairly stated that the first respondent is fully qualified to hold the post of Professor in

Law as he acquired the required qualification before 19 September 1991. It was submitted that the very Writ Petition could be disposed of by directing the Syndicate to consider the report dated 31 May 2014 and dispose of the proceedings initiated against the first respondent. The learned Advocate General submitted that the learned Judge without any regard to the roster, converted the Writ Petition into a Public Interest Litigation and issued series of directions, which has nothing to do with the issue raised by the first respondent in his Writ Petition in W.P.No.25998 of 2015. According to the learned Advocate General, the report submitted to the Court by the Grievance Committee is kept as a secret and impugned order was passed for impleading the parties, as if the appointment of respondents 3 to 36 are under challenge in the Writ Petition.

14. The learned Advocate General cited the judgment of the Hon'ble Hon'ble Supreme Court in ***State of Uttar Pradesh and others vs. Subhash Chandra Jaiswal and others, (2017(5) SCC 163)*** and contended that the learned Judge side-tracked from the main issue and focused on larger issues, which were not the subject matter before the Writ Court.

15. The learned Senior counsel for the appellant in W.A.No.489 of 2019 contended that the learned Single Judge passed series of orders, which are contrary to one another. According to the learned Senior

counsel, there was no challenge to the appointment of the appellant by the first respondent. The learned Single Judge passed the interim order on 1 February 2019 and kept the matter on the file of the said Court as if it was a matter specifically entrusted to the learned Judge. The learned Senior counsel took us through various orders passed by the learned Single Judge dated 18 September 2018, 25 September 2018, 3 October 2018, 14 November 2018, 3 January 2019 and the impugned order dated 1 February 2019 and contended that the learned Single Judge proceeded as if the matter requires adjudication in public interest, without considering the jurisdictional fact that public interest litigation is not maintainable in a service matter. The learned Senior counsel finally contended that in case the Writ Petition is treated as a public interest litigation, it should be placed before the Division Bench as per roster.

16. The learned Senior Counsel placed reliance on the judgment of the Hon'ble Supreme Court in ***Orissa State Financial Corporation vs. Narsingh Ch.Nayak and others*, [2003 (10) SCC 261]** and ***Girjesh Shrivastava and others vs. State of Madhya Pradesh and others*, [2010(10) SCC 707]** and contended that public interest litigation is not maintainable in service matters and that Court cannot issue directions under its power of writ jurisdiction without there being a specific issue raised in the Writ Petition.

17. The learned counsel for the first respondent very fairly submitted that the first respondent is not supporting the order passed by the learned Single Judge which is impugned in the appeals. According to the learned counsel, the first respondent is interested only to protect his service and to expose the second respondent, who was instrumental in suspending him from service. The learned counsel submitted that the first respondent was not prepared to dance to the tunes of the second respondent and that was the primary reason which made him to arrange a lawyer to submit a complaint. The learned counsel further submitted that the first respondent satisfied the eligibility criteria and it was also certified by the Committee in its report dated 31 May 2014. According to the learned counsel, the matter will become final in case the report is placed before the Syndicate.

18. The learned counsel for the second respondent submitted that the second respondent is not interested to proceed against the faculty members. According to the learned counsel, it was only in larger public interest and particularly in the interest of students, the second respondent in his counter affidavit referred to the cases of teachers, who failed to satisfy the eligibility criteria. The learned counsel further contended that it was only pursuant to the direction issued by the writ court, the second respondent filed the counter affidavit with the names of ineligible teachers. According to the learned counsel, the second respondent is interested only in the institution as he was also instrumental in bringing the institution to its

present position.

Discussion:-

19. The Writ Petitioner in W.P.No.25998 of 2015 challenges the proceedings issued by the Vice Chancellor of the University, which is adverse to his service interest. The issue before the learned Single Judge therefore was as to whether the Vice Chancellor was legally correct in passing the impugned proceedings.

20. The learned single Judge without deciding the primary question raised in the Writ Petition, issued string of orders, which has nothing to do with the issue raised by the first respondent.

21. The learned single Judge suo motu by order dated 3 January 2019, directed the grievance committee to conduct enquiry and submit a report. The Committee submitted its report before the Court on 1 February 2019. The report was not given to the parties. The learned single Judge thereafter passed the impugned order on 1 February 2019, and posted the Writ Petition on 20 February 2019. The paragraph 13 of the order reads thus :-

“13.This Court heard the matter elaborately and pursuant to the orders of this Court, the Grievance Committee of the Law University also had submitted reports in respect of the

educational qualifications and eligibility criteria of the Law Teachers, who all are serving in the University and the respective learned counsels also argued their case almost in full. This Court is of an opinion that the final order is yet to be passed only after getting some more facts from the newly impleaded respondents. In view of the fact that the case was heard for a considerable length of time and on several hearings, departing the case would certainly amount to waste of judicial time. Thus, the matter stands posted for reporting compliance and for passing final orders, the Registry is directed to list the matter on 20.02.2019." (Emphasis supplied).

22. Since the parties have taken up a contention on the basis of the roster, and the practice of "treating the matter as part heard", we are constrained to deal with the said issue at the first instance.

Part heard cases:-

23. The Hon'ble Chief Justice, as the Master of the Roster, made certain fundamental changes to the practice of keeping matters with particular Benches even after the change of roster on the ground that it is "part heard". The notification issued by the Hon'ble Chief Justice contain a clear bar to keep the cases "part heard". In case the parties are of the view that it would be in the interest of both sides to continue to hear and decide

a particular matter by a learned Judge who heard it earlier, notwithstanding the change of roster, it is open to them to submit a joint application to the Hon'ble Chief Justice for posting before the very same learned Judge. However, the ultimate authority for granting approval for such posting is only the Hon'ble Chief Justice.

24. The application for treating the case as “part heard” should be submitted with the consent of both the parties. In case, one of the parties to the litigation is not in favour of treating a particular case as “part heard”, the matter should go before the concerned Judge as per roster. However, even in such cases, it is for the Hon'ble Chief Justice to take a decision. The decision taken by the Hon'ble Chief Justice is final.

25. The parties have absolutely no say or role to play in the matter of allotment of cases to different Benches constituted by the Hon'ble Chief Justice. The consent of parties would not confer jurisdiction on a particular Bench to hear a matter unless there is a specific order passed by the Hon'ble Chief Justice, allotting such cases, exception being the specially ordered matters posted before various Benches pursuant to the specific orders passed by the Hon'ble Chief Justice, from time to time.

Part heard matters ceased to be part heard with change of roster:-

26. The following order passed by the Hon'ble Chief Justice while

issuing the roster for the period commencing from 8 November 2018 and the subsequent roster for the period from 4 February 2019 clearly shows that part heard matters ceased to be part heard, with the change of assignment.

Whenever the Division Bench/Single Bench directs the Registry with an observation to tag the case(s) in hand along with the similar case(s) and if the case(s) to be tagged is/are not within the Roster of the Hon'ble Bench, the Registry shall obtain appropriate orders from the Hon'ble the Chief Justice for tagging and listing the cases before the Hon'ble Court.

Part-heard matters ceased to be part heard with change of assignment, unless where a proposal for continuation of the matters is sent by the concerned Bench at the request of the parties and the same is approved by the Hon'ble the Chief Justice.

(emphasis supplied)

Chief Justice – Master of the roster:-

27. The position of the Hon'ble Chief Justice as the Master of the Roster was considered by the Hon'ble Supreme Court in ***State of Rajasthan vs. Prakash Chand, 1998(1) SCC 1***. The prerogative of the Hon'ble Chief Justice for constitution of Benches and allotment of cases was indicated in paragraph No.59 of the judgment in ***Prakash Chand*** :-

“(1) That the administrative control of the High Court vests in the Chief Justice alone. On the judicial side, however, he is only the first amongst the equals.

(2) That the Chief Justice is the Master of the Roster. He *alone* has the prerogative to constitute Benches of the court and allocate cases to the Benches so constituted.

(3) That the puisne Judges can only do that work as is allotted to them by the Chief Justice or under his directions.

(4) That till any determination made by the Chief Justice lasts, no Judge who is to sit singly can sit in a Division Bench and no Division Bench can be split up by the Judges constituting the Bench themselves and one or both the Judges constituting such Bench sit singly and take up any other kind of judicial business not otherwise assigned to them by or under the directions of the Chief Justice.

(5) That the Chief Justice can take cognizance of an application laid before him under Rule 55 (supra) and refer a case to the larger Bench for its disposal and he can exercise this jurisdiction even in relation to a part-heard case.

(6) That the puisne Judges cannot “pick and choose” any case pending in the High Court and assign the same to himself or themselves for disposal without appropriate orders of the Chief Justice.

(7) That no Judge or Judges can give directions to the Registry for listing any case before him or them which runs counter to the directions given by the Chief Justice.”

28. The legal position elucidated in **Prakash Chand** was recently followed by a Constitution Bench in **Kamini Jaiswal vs. Union of India and another**, (2018(1) SCC 156); and Three Judges Bench in **Campaign for Judicial Accountability and Reforms vs. Union of India and another**, (2018(1) SCC 196) and **Asok Pande vs. Supreme Court of India, through its Registrar and ors.**, (2018(5) Scale 481).

29. The conventions which are providing guidance to the Hon'ble Chief Justice in the matter of allocation of work among the Hon'ble Judges with special reference to the Chartered High Court of Allahabad, Bombay and Madras were referred to in **Asok Pande vs. Supreme Court of India, through its Registrar and ors.**, 2018(5) Scale 481.

14. The Chartered High Courts of Allahabad, Bombay, Calcutta and Madras have a long history of over a hundred and fifty years. Each of them has marked its sesquicentennial. Many High Courts are not far behind in vintage. Some are of a recent origin. Over the course of their judicial history, High Courts have evolved conventions in matters governing practice and procedure. These conventions provide guidance to the Chief Justice in the allocation of work,

including in the constitution of Benches. The High Courts periodically publish a roster of work under the authority of the Chief Justice. The roster indicates the constitution of Benches, Division and Single. The roster will indicate the subject-matter of the cases assigned to each Bench. Different High Courts have their own traditions in regard to the period for which the published roster will continue, until a fresh roster is notified. Individual Judges have their own strengths in terms of specialisation. The Chief Justice of the High Court has to bear in mind the area of specialisation of each Judge, while deciding upon the allocation of work. However, specialisation is one of several aspects which weigh with the Chief Justice. A newly appointed Judge may be rotated in a variety of assignments to enable the Judge to acquire expertise in diverse branches of law. Together with the need for specialisation, there is a need for Judges to have a broadbased understanding of diverse areas of law. In deciding upon the allocation of work and the constitution of Benches, Chief Justices have to determine the number of Benches which need to be assigned to a particular subject-matter keeping in view the inflow of work and arrears. The Chief Justice of the High Court will have regard to factors such as the pendency of cases in a given area, the need to dispose of the oldest cases, prioritising criminal cases where the liberty of the subject is involved and the overall strength, in terms of numbers, of

the Court. Different High Courts have assigned priorities to certain categories of cases such as those involving senior citizens, convicts who are in jail and women litigants. These priorities are considered while preparing the roster. Impending retirements have to be borne in mind since the assignment given to a Judge who is due to demit office would have to be entrusted to another Bench when the vacancy arises. These are some of the considerations which are borne in mind. The Chief Justice is guided by the need to ensure the orderly functioning of the Court and the expeditious disposal of cases. The publication of the roster on the websites of the High Courts provides notice to litigants and lawyers about the distribution of judicial work under the authority of the Chief Justice.

30. The Hon'ble Supreme Court in ***Kamini Jaiswal vs. Union of India and anr, 2018(1) SCC 156***, made it clear that cases cannot be posted by passing judicial orders, de hors the roster. The observation reads thus:-

“31. .. The cases cannot be assigned by judicial order. Such judicial order is simply to be ignored as it is not open to the Judges to decide which matter is to be heard by whom as laid down by the Constitution Bench.”

31. The appellants took up a contention that the learned Single Judge proceeded as if in the event of disputing the eligibility of a person to hold the post of Vice Chancellor or Professor, even in an incidental pleading, the Vice Chancellor and Professors must establish their credentials. The observations made by the learned Single Judge in paragraph 6 and 7 of the order dated 1 February 2019 are taken as the basis for the said contention.

32. The question of meeting the challenge to the eligibility to hold a post would arise only in a properly filed proceedings challenging the appointment of the incumbent. The High Court is not the authority to probe into all types of allegations even made collaterally in a pending proceeding, unless to resolve the issue pending before it, determination of such collateral issues are also necessary.

33. The Writ Petition in W.P.No.25998 of 2015 is not a writ of Quo Warranto. There is no challenge to the appointment of the Vice Chancellor or other members of the faculty. The former Vice Chancellor, in his counter affidavit made certain comments about the ineligibility of some of the Teachers to hold the post. Even those allegations were not relating to UGC norms. According to the second respondent, the norms prescribed by the Tamil Nadu Dr.Ambedkar Law University were not satisfied by the teachers whose names were shown in his counter affidavit. The learned Single

Judge on the basis of the materials collected pursuant to the interim orders and the counter affidavit filed by the second respondent, expanded the scope of the Writ Petition by impleading almost all the Teachers of the Law University.

34. The factual matrix indicates that the first respondent was an applicant for appointment to the post of Vice Chancellor. The second respondent was also an applicant and ultimately, he was selected. In the meantime, the University received a complaint from A.M.Shankar, who is stated to be a moffussil lawyer, alleging that the first respondent is not qualified for appointment to the post of Professor in Law. The complaint was placed before the Syndicate. The Syndicate of the University constituted a committee on 10 January 2014 under the Chairmanship of Hon'ble Mr.Justice S.Jagadeesan. The first respondent was suspended from the post of Registrar by order dated 21 March 2014.

35. The committee under the Chairmanship of Mr.Justice Jagadeesan submitted a report on 31 May 2014 holding that the first respondent is fully qualified for appointment to the post of Professor in Law. The report was placed before the writ Court in W.P.Nos.9083 to 9085 of 2014. Before the writ court, the counsel for the University submitted that the report would be submitted before the Syndicate for taking a decision.

<http://www.judis.nic.in> Since the suspension period expired long back, the learned Single Judge, after recording the submission that the matter would be placed before the

Syndicate, dismissed the Writ Petitions.

36. The report was placed before the Syndicate on 5 September 2014. It was resolved to circulate a copy of the report to the Members of the Syndicate. The matter was not placed thereafter in the Syndicate meeting.

37. The second respondent thereafter took a U turn and forwarded the papers to the University Grants Commission, seeking certain clarifications with regard to the qualification of the first respondent. The second respondent notwithstanding the undertaking given before the learned single Judge, failed to place the matter before the Syndicate. The course of conduct adopted by the second respondent prima facie indicates that he was determined to keep the first respondent out of service. The second respondent in all fairness should have placed the matter before the Syndicate after circulating a copy of the report dated 31 May 2014 to the members of the Syndicate. The second respondent made certain observations, taking into account the findings given by the Committee which was uncalled for. In fact, the second respondent has no independent authority to take a decision in the matter, without reference to the Syndicate.

38. The learned Advocate General appearing on behalf of the

University fairly submitted that the University is now prepared to place the

enquiry report dated 31 May 2014 before the Syndicate for taking appropriate decision, taking into account the eligibility of the first respondent to hold the post.

39. The Writ Petition in question challenges the proceedings of the Vice Chancellor dated 12 August 2015, referring the matter to the University Grants Commission. The said proceedings goes contrary to the undertaking given by the University before the learned Single Judge in W.P.Nos.9083 to 9085 of 2014 that the matter would be placed before the Syndicate. The Vice Chancellor has no authority to send a communication to the University Grants Commission without placing the matter before the Syndicate. The Syndicate is the appropriate authority to consider the report submitted by the Committee presided by a former Judge of the High Court. In fact, the UGC regulations clearly supports the case pleaded by the first respondent and the said position is also confirmed by the learned Advocate General on behalf of the Law University.

40. The appellants are correct in their contention that while hearing a Writ Petition filed by an individual, if the learned Judge arrives at an opinion that there is an element of public interest involved in the matter, the proper course is to refer the matter to the Hon'ble Chief Justice for posting it before the appropriate Bench. The roster duly approved by the Hon'ble Chief Justice does not contain any indication that the Benches other than

the roster Bench are authorized to entertain Writ Petitions involving public interest.

The Supreme Court on adjudicatory process :-

41. The Hon'ble Supreme Court in ***State of Uttar Pradesh v. Subhash Chandra Jaiswal***, (2017) 5 SCC 163, cited with approval the following three earlier judgments of the Supreme Court, indicating the parameters for deciding the lis.

(i) In ***Subrata Roy Sahara v. Union of India***, (2014) 8 SCC 470, it has been held that a Judge is to decide every dispute, in consonance with law. One is not free to decide in consonance with his will, but must decide in accord with law. It has been further held that the concept of a Judge being an individual possessing power and authority, is but a delusion.

(ii) In ***Gurdev Kaur v. Kaki***, (2007) 1 SCC 546] it has been observed thus:

“2. Judges must administer law according to the provisions of law. It is the bounden duty of Judges to discern legislative intention in the process of adjudication. Justice administered according to individual's whim, desire, inclination and notion of justice would lead to confusion, disorder and chaos.”

(iii) **14.** In *Census Commr. v. R. Krishnamurthy* (2015) 2 SCC 796, the three-Judge Bench observed as follows:

“1. ... No adjudicator or a Judge can conceive the idea that the sky is the limit or for that matter there is no barrier or fetters in one's individual perception, for judicial vision should not be allowed to be imprisoned and have the potentiality to cover celestial zones.

Be it ingeminated, refrain and restrain are the essential virtues in the arena of adjudication because they guard as sentinel so that virtuousness is constantly sustained.

42. The Hon'ble Supreme Court in ***Subhash Chandra Jaiswal***, sounded a note of caution in paragraph 17 of the judgment.

17. A Judge should not perceive a situation in a generalised manner. He ought not to wear a pair of spectacles so that he can see what he intends to see. There has to be a set of facts to express an opinion and that too, within the parameters of law.

43. The Hon'ble Supreme Court in ***B.Srinivasa Reddy vs. Karnataka Urban Water Supply & Drainage Board Employees' Association, [2006 (11) SCC 731]***, held that in service matters, only the non appointees can assail the legality of the appointment.

44. The Hon'ble Supreme Court in ***Orissa State Financial Corporation vs. Narsingh Ch.Nayak and others, [2003(10) SCC 261]*** observed that while exercising its extra ordinary jurisdiction under Article 226 of the Constitution, the High Court has wide power to pass appropriate order and issue proper direction as necessary in the facts and circumstances of the case and in the interest of justice. However, it was pointed out that the High Court cannot ignore the scope of the Writ Petition and the nature of the dispute.

45. The Hon'ble Supreme Court in ***Om Prakash Chautala vs. Kanwar Bhan, (2014(5) SCC 417)***, emphasized the position of a Judge as an adjudicator in the following words:-

19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision-making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one's emotions subservient to one's reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum. A judgment may have rhetorics but the said rhetoric has to be dressed with reason and must be in accord with the legal principles. Otherwise mere rhetoric, especially in a judgment, may likely to cause prejudice to a person and

courts are not expected to give any kind of prejudicial remarks against a person, especially so, when he is not a party before it. In that context, the rhetoric becomes sans reason, and without root. It is likely to blinden the thinking process. A Judge is required to remember that humility and respect for temperance and chastity of thought are at the bedrock of apposite expression.

THE PARTIES NOT IN FAVOUR OF EXPANDING THE SCOPE OF THE WRIT PETITION:-

46. The learned counsel for the former Vice Chancellor, the second respondent in W.A.No.488 of 2019 after the conclusion of his arguments submitted that the affidavit with regard to the qualification of the faculty members was filed pursuant to the direction given by the learned Single Judge. According to the learned counsel, the second respondent is not interested to convert the Writ Petition in W.P.No.25998/2015 into a public interest litigation to probe into the eligibility of the faculty members to hold the post, which they are occupying now.

47. The first respondent has already made his position clear that he is not concerned with the appointments or educational qualification of the other faculty members.

48. There was no *lis* before the writ court relating to the appointment of the other faculty members, who were impleaded by order dated 1 February 2019. The learned single Judge without there being a prayer at the instance of any of the parties to the Writ Petition took up larger issues *suo motu*, which is evident from the string of interim orders available on record. The Court is expected only to adjudicate the matter before it. In view of the various orders passed by the learned Single Judge and the enquiry initiated pursuant to interim orders, the first respondent is still in the corridors of the Court. The Writ Petition filed by the first respondent in 2015 is still pending before this Court not due to his fault but on account of the subsequent events which is the basis for the intra court appeals.

49. It is now clear that neither the petitioner in the Writ Petition nor the respondents are in favour of converting the Writ Petition into a public interest litigation. Since the parties to the Writ Petition are not praying for extending the scope of the Writ Petition, the writ court has only to decide the *lis* before it on merits.

Conclusion:-

50. The scope of the writ petition in W.P.No.25998/2015 is very limited. The writ court is concerned only with the legality and correctness of the proceedings impugned in the writ petition. The writ petition has nothing to do with the service of the other teachers or the appointment of Vice

Chancellor. The question of adjudicating the eligibility of the Vice Chancellor and the teachers to hold the respective posts would arise only in case their appointments are challenged in the manner known to law.

51. The Writ Petitioner is concerned only with his service and the possibility of affecting his career on account of the proceedings impugned in the Writ Petition. The counter affidavit filed by a party to the Writ Petition cannot be the basis to expand the scope of the Writ Petition or to make others parties to the *lis*. We are therefore of the view that the appellants must succeed. We make it clear that the only issue to be decided in W.P.No.25998 of 2015 is the legality of the order dated 12 August 2015 and other issues indicated in the order dated 1 February 2019 are not germane for consideration for deciding the said issue.

52. We deem it fit and proper to extract the following observation made by the Hon'ble Supreme Court in **Om Prakash Chautala**, indicating the role of a Judge in the justice dispensation system and the need to confine within the legal parameters.

20. Thus, a Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth" and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.

53. For the reasons aforesaid, we set aside the order dated 1 February 2019.

54. In the upshot, we allow the intra court appeals. No costs.

(K.K.SASIDHARAN, J.) (P.D.AUDIKESAVALU, J.)
20.02.2019

Index: Yes/no
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To

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K.K.SASIDHARAN, J.

and

P.D.AUDIKESAVALU, J.

(tar)



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