

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.10.2019

DELIVERED ON : 05.11.2019

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.A.Nos.3215, 3217, 3218, 3219,
3224, 3227 and 3231 of 2019
and CMP.Nos.20333, 20341, 20344, 20376, 20406,
20435 and 20457 of 2019

K.C.Chandra Sekar ..Appellant/Petitioner in WA.No.3215 of 2019
E.Kausalya .. Appellant/Petitioner in WA.No.3217 of 2019
V.Muthukumaran ..Appellant/Petitioner in WA.No.3218 of 2019
S.Saravanan ..Appellant/Petitioner in WA.No.3219 of 2019
N.Helen Prema ..Appellant/Petitioner in WA.No.3224 of 2019
K.Devanathan ..Appellant/Petitioner in WA.No.3227 of 2019
Dhayanandan ..Appellant/Petitioner in WA.No.3231 of 2019

Vs.

The Annamalai University,
Rep. by its Registrar (In-charge),
Annamalai Nagar,
Chidambaram 608 001. .. Respondent/Respondent in all Was.

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 12.04.2019 made in W.P.Nos.26534 and 26509 of 2018, order dated 05.03.2019 made in W.P.No.24186 of 2018, order dated 10.04.2019 made in W.P.Nos. 26206, 26192, 26914 of 2018 and the order dated 12.03.2019 made in W.P.No.1528 of 2019.

Common Prayer in all Wps.:

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order of the

respondent in Ref.No.C1-10/21851/2018 dated 13/08/2018 quash the same and consequently direct the respondent herein to permit the petitioner to continue his services as Special Officer with the respondent University with the same scale of pay with all service and attendant benefits.

For Appellants : Mr.Syed Mustafa
in all W.As.

COMMON JUDGMENT

M.SATHYANARAYANAN, J.

The petitioners, who are all employees of the respondent/University, made individual challenge to the impugned show cause notice issued by filing writ petitions and contested on merits and it was dismissed, vide common orders dated 12.04.2019, 05.03.2019, 10.04.2019 and 12.03.2019 respectively and challenging the legality of the said common orders, the present writ appeals are filed.

W.A.No.3215 of 2019 against W.P.No.26534 of 2018

2.1. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that he was appointed as Special Officer in the Documentation Office of the respondent/University on 18.09.2006 on a Pay of Rs.13,000/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 07.10.2008, while he was working in Tirupathi and subsequently, he got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007 vide Resolution No.64 and he claimed that on re-appointment, his services were regularized on completion of probation and he became a full-fledged employee.

W.A.No.3217 of 2019 against W.P.No.26509 of 2018

2.2. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that she was appointed as Special Officer in the respondent/University in the Distance Education Centre at Panruti on 03.11.2009 on a Pay of Rs.21,000/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 16.12.2011, while she was working in Vadalur and subsequently, she got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007, vide Resolution No.64 and she claimed that on re-appointment, her services were regularized on completion of probation and she became a full-fledged employee.

W.A.No.3218 of 2019 against W.P.No.24186 of 2018

2.3. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that he was appointed in the respondent/University as Special Officer in the Directorate of Distance Education Study Centre at Mysore on 15.03.2012 on a Pay of Rs.13,500/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University during 2013, while he was working in Mysore Study Centre and subsequently, he got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007 vide Resolution No.64 and he claimed that on re-appointment, his services were regularized on completion of probation and he became a full-fledged employee.

W.A.No.3219 of 2019 against W.P.No.26206 of 2018

2.4. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that he was appointed in the respondent/University as Special Officer in the Distance Education Study Centre at Sethamangalam on 26.12.2008 on a Pay of Rs.13,000/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 21.02.2011, while he was working in Sethamangalam and subsequently, he got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007 vide Resolution No.64 and he claimed that on re-appointment, his services were regularized on completion of probation and he became a full-fledged employee.

W.A.No.3224 of 2019 against W.P.No.26192 of 2018

2.5. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that she was appointed in the respondent/University as Special Officer in the Distance Education Study Centre at Nagercoil on 21.05.2002 on a Pay of Rs.13,500/- per month with admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 16.08.2004, while she was working in Nagercoil and subsequently, she got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007 vide Resolution No.64 and she claimed that on re-appointment, her services were regularized on completion of probation and he became a full-fledged employee.

W.A.No.3227 of 2019 against W.P.No.26914 of 2018

2.6. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that he was appointed in the respondent/University as Special Officer in the Directorate of Distance Education Study Centre at Pothigai

Illam, Cuddalore on 18.03.2011 on a Pay of Rs.21,000/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 09.07.2012, while he was working in Pothigai Illam, Cuddalore and subsequently, he got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007, vide Resolution No.64 and he claimed that on re-appointment, his services were regularized on completion of probation and he became a full-fledged employee.

W.A.No.3231 of 2019 against W.P.No.1528 of 2019

2.7. The appellant/writ petitioner in the affidavit filed in support of the writ petition would state that he was appointed in the respondent/University as Special Officer in the Directorate of Distance Education Study Centre at Thiruvavarur on 16.02.2009 on a Pay of Rs.8,000/- per month with all admissible allowances initially for a period of one year and on rendering satisfactory service, it was confirmed, vide proceedings of the respondent/University on 31.03.2011, while he was working in Valangaiman Study Centre and subsequently, he got reappointment as Liaison Officer, which was approved by the Syndicate of the respondent / University on 23.04.2007 vide Resolution No.64 and he claimed that on re-appointment, his services were regularized on completion of probation and he became a full-fledged employee.

2.8. All the writ petitioners were issued with show cause notices dated 13.08.2018 by the respondent/University and it is relevant to extract the same:

"Ref.No.C1-10/21851/2018

Date: 13.08.2018

SHOW CAUSE NOTICE

Sub: Annamalai University - Appointment of Liaison Officers / Special Officers without the availability of sanctioned post and without any assessment of workload - Accommodating as Assistant Section Officers - Show Cause Notice - Issued.

It is noticed that there are about seven hundred and eighty five (785) Zonal Officer / Liaison Officers / Special Officers Grade I and Grade II on the rolls of the University remaining as surplus in terms of the workload available; and causing a huge financial loss to a tune about Rs.60 Crores per annum. The continuance of these 785 surplus officers in employment without no work but with full pay almost cripples the financial situation causing huge deficit every year and posing imminent threat to the very existence of the

University.

Further, it is noticed that your initial appointment dated 20.09.2006 as well as the confirmation thereof dated 20.09.2008 seems to have been made simply pursuant to orders of the Vice-Chancellor without the availability of any sanctioned post, without any assessment of workload, without any recommendation of the Finance Committee and without any resolution of the University Syndicate.

With the intent of striking a balance between the deteriorating financial position of the University and avoiding retrenchment of these surplus officers who have no work, the University has been exploring the possibility of accommodating these surplus officers against some other cadre for the time being namely, Assistant Section Officers in the pay scale of Rs.9300 - 34800 + GP 4600.

The University is of the view that the above proposal, although might reduce your present scale of pay of Rs.15600 - 39100 + GP5400 to Rs.9300-34800+GP4600, would contribute to a certain level to the financial stability of the University. The University intends to process this proposal after taking your remarks / explanation in this regard.

Hence, you are requested to submit your remarks/explanation as to why the University shall not process the proposal of accommodating you (Special Officer Grade-I with the present scale of Rs.15600-39100+GP5400) for the time being into the cadre of Assistant Section Officer / Equivalent with the scale of Rs.9300-34800+GP 4600 so as to preserve your employment and to ensure the financial stability of the University, within a period of 15 days from the date of receipt of this notice.

If no remarks/explanation are forthcoming within the stipulated time, it shall be construed that you have nothing to offer on your side in this regard and the University would pursue the matter further."

2.9. Individual challenge has been made to the show cause notices on the following grounds:

- The show cause notices have been issued without any authority / jurisdiction.

- Initial appointment and subsequent reappointment was made by the Syndicate of the respondent/University and their services were also regularized.
- All the appellants are lawfully appointed, vide proceedings and resolutions of the Syndicate of the respondent/University and the appellants/writ petitioners are in possession of all or entire documents to sustain and substantiate the said fact and therefore, the contents of show cause notices are contrary to the facts and the respondent/University, represented by it's Registrar, is not competent to set aside the decision of the Syndicate in terms of the Annamalai University Act, 2013.
- In terms of Section 58 of the Annamalai University Act, 2013 [Tamil Nadu Act No.20 of 2013], service conditions, salary etc., are protected and since the reappointment of the appellants/writ petitioners was made as per the resolution of the Syndicate, the same can be set aside/ set at nought by the Registrar, representing the University and it is for the Syndicate - supreme body to take a call.
- The reason stated in the show cause notice that there are surplus officers, is also unsustainable in the absence of any yardstick for fixing the cadre strength.
- Ministerial staffs have also faced serious objections and they were given pay protection and whereas in the case of the appellants/writ petitioners, the same is being rejected.
- Revised Scale of Pay suggested in the impugned show cause notices have been done by not following the procedural formalities and the same is unsustainable.
- The respondent has also failed to follow the procedural practice of converting the post to other equivalent post and when there are several teaching posts are vacant, the decision taken by the respondent is inconsistent with the decision taken in the case of other category of posts [in respect of appellant in W.A.No.3218 of 2019].
- The impugned show cause notices seeking to revert as well as to reduce the Scale of Pay of the appellants/writ petitioners is without any justifiable reason/action and it is an arbitrary exercise of power and thereby it is contradictory to Section 58 of the Annamalai University Act, 2013 and also Article 14 of the Constitution of India.

2.10. The learned Single Judge, in the impugned common order, recorded the fact that all the writ petitioners had submitted explanation/objection to the impugned show cause notice in pursuant to the interim orders passed while entertaining the writ petitions. The learned Single Judge has also recorded the submission made on behalf of the writ petitioners that the impugned show cause notices itself are contrary to the decision already taken by the Competent Authority in G.O.Ms.No.402, Higher Education Department dated 13.12.2006 and G.O.Ms.No.108, Higher Education Department dated 28.04.2017. The learned Judge has formulated a question that whether the merits raised in respect of the proposed decision can be adjudicated in a writ proceedings under Article 226 of the Constitution of India and also taken note of the submission that the reasons assigned in the impugned show cause notice would exhibit pre-determination of mind and observed in paragraph No.26 that "A speaking show cause notice alone will provide an opportunity to the person aggrieved to submit his explanation/objections. Contrarily, if the show cause notice is non-speaking without any details may not be proper and the aggrieved person would not be in a position to offer his explanation/objection" and in paragraph No.28 concluded as follows:

"28. This Court is of the opinion that the issue in relation to the fixation of Scale of Pay, must be adjudicated in entirety by the competent authorities. Since the proposed decision in the impugned notices, will affect the interest of the employees, who all are already in service. Thus, an effective adjudication by providing opportunity to all the persons, who are likely to be affected, must be heard and their explanations must be considered."

In paragraph No.28, all the writ petitions were disposed of with the following directions:

"29..(1) The relief as such sought for in all the writ petitions stand rejected.

(2) The 3rd respondent / The Registrar is directed to receive the additional grounds / explanations / objections from all the persons, against whom, the show cause notices are issued.

(3) The writ petitioners are directed to submit their additional grounds / explanations / objections to the 3rd respondent / The Registrar, within a period of four weeks from the date of receipt of a copy of this order, for placing the entire records before the competent authorities for adjudication and for providing personal hearing to all these writ petitioners.

(4) The authorities competent are directed to consider all the materials available on record including the submissions made during the personal hearing by the writ petitioners and take a decision on merits and in accordance with law and pass final orders on or before 30th July, 2019."

2.11. Challenging the above common orders, the present Writ Appeals are filed. The writ appeals were entertained and this Court, while entertaining the writ appeals, had granted liberty to the respondent/University to pass appropriate orders on merits taking note of the explanation submitted by the respective appellants and after affording opportunity of personal hearing and also made it clear that in case any adverse orders are passed against the appellant, the same cannot be implemented against them.

3. Mr. Syed Mustafa, learned counsel appearing for the appellants/writ petitioners would submit that as against the common order dated 05.03.2019 made in W.P.Nos.24186 of 2018 etc., batch, other writ appeals are also pending raising the very same grounds and on merits, would add that the Registrar is not competent to issue show cause notice and that apart, reasons had already been indicated in the impugned show cause notices, which would also exhibit pre-determination of mind on the part of the respondent/University and no purpose would be served in directing the respondents to consider the explanation submitted by the appellants to the impugned show cause notices. It is the further submission of the learned counsel appearing for the appellants that the services of the appellants/writ petitioners were also confirmed and after coming into force of the new Act in the year 2013, reappointments were also made and now all of a sudden, after a lapse of very many years, the impugned show cause notices have been issued as to why they should not be accommodated in lower posts and the same is not only highly inequitable, but also impermissible under law, especially Section 58 of the Annamalai University Act, 2013.

4. The learned counsel appearing for the appellants would further submit that even assuming that the contents of the show cause notices are tenable, it should have been issued by the Vice Chancellor and however, it has been issued by the Registrar, who is not the Competent Authority to do so and hence, prays for setting aside the impugned order passed in the writ petitions as well as the impugned show cause notices. The learned counsel appearing for the appellants during the course of arguments has invited the attention of this Court to the order dated 21.01.2019 made in W.P(MD)Nos.11068 and 11069 of 2018 [M.Dhanasekara Pandian and another v. The Registrar,

Annamalai University] as well as certain provisions of the Annamalai University Act, 2013.

5. This Court paid it's anxious consideration and best attention to the arguments advanced by the learned counsel appearing for the appellants/writ petitioners and also perused the materials placed before it.

6. The Annamalai University Act, 1928 was repelled and re-enacted in the Annamalai University Act, 2013 [Tamil Nadu Act No.20 of 2013] and it also received the assent of the President on 23.09.2013. It is relevant to extract certain provisions of the said Act:

Section 2(i). "University" means the Annamalai University deemed to have been established under Section 3.

Section 5. (1) The Government shall have the right to cause an inquiry to be made by such person or persons as they may direct in respect of any matter connected with the University.

(2) The Government shall, in every case, give notice to the University of their intention to cause an inquiry to be made and the University shall be entitled to be represented at such inquiry.

(3) The Government shall communicate to the University their views with reference to the result of such inquiry and may, after ascertaining the opinion of the University thereon, advise the University upon the action to be taken and fix a time limit for taking such action.

(4) The University shall, within the time limit so fixed, report to the Government the action taken or proposed to be taken on the advise tendered by the Government.

(5) If the University does not take action within the time fixed or if the action taken by the University is in the opinion of the Government not satisfactory, the Government may, after considering any explanation offered or representation made by the University, issue such directions as they may deem fit and the University shall comply with such directions.

(6) In the event of the Academic Council or the Syndicate not complying with those directions within such time as may be fixed in that behalf by the Government, the Government shall have power to appoint some person or body to carry them out.

Section 6. The University shall consist of the following officers, namely:—

- (1) The Chancellor;
- (2) The Pro-Chancellor;
- (3) The Vice-Chancellor;
- (4) The Registrar;
- (5) The Deans;
- (6) The Finance Officer;
- (7) The Controller of Examination; and
- (8) Such other persons as may be declared by the statutes to be officers of the University.

Section 10. (1) The Vice-Chancellor shall be the principal executive and academic head of the University.

(2) The Vice-Chancellor shall, in the absence of the Chancellor and Pro-Chancellor, preside at the convocation of the University and confer degrees, titles, diplomas or other academic distinctions upon persons entitled to receive them.

(3) The Vice-Chancellor shall exercise control over the affairs of the University and shall be responsible for the due maintenance of discipline in the University.

(4) The Vice-Chancellor shall ensure the faithful observance of the provisions of this Act and the statutes, ordinances and regulations made thereunder.

(5) In any emergency, which in the opinion of the Vice-Chancellor requires immediate action to be taken, he shall, by order, take such action as he deems necessary and shall, at the earliest opportunity, report the action taken to such officer or authority or body as would have in the ordinary course dealt with the matter:

Provided that no such order shall be passed unless the person likely to be affected, has been given a reasonable opportunity of being heard.

(6) Any person, aggrieved by any order of the Vice-Chancellor under sub-section(5), may prefer an appeal to the Syndicate within thirty days from the date on which such order is communicated to him and the Vice-Chancellor shall give effect to the order passed by the Syndicate on such appeal.

(7) The Vice-Chancellor shall give effect to the decision of the Syndicate regarding the appointment, suspension and dismissal of the teachers and other persons employed in the University.

(8) The Vice-Chancellor shall be the ex-officio Chairman of the Syndicate, Academic Council and the Finance Committee. The Vice-Chancellor shall be entitled to be present at, and to address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat, unless he is a member of the authority or body.

(9) The Vice-Chancellor shall convene meetings of the Syndicate, the Academic Council and the Finance Committee.

(10) The Vice-Chancellor shall be responsible for the co-ordination and integration of teaching and research extension education and curriculum development.

(11) The Vice-Chancellor shall exercise such other powers and perform such duties as may be prescribed by statutes.

Section 11. (1) The Registrar shall be a whole-time salaried officer of the University appointed by the Syndicate. The qualifications and the method of recruitment shall be such as may be prescribed. The terms and conditions of service of the Registrar shall be as follows:—

(a) The holder of the post of Registrar shall be an academician not below the rank of a Professor in the University;

(b) The Registrar shall hold office for a period of three years:

Provided that the Registrar shall retire on attaining the age of sixty years or on the expiry of period specified in this clause, whichever is earlier.

(c) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed.

(d) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or for any other cause, unable to perform the duties of

his office, the duties of the office of the Registrar shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(2) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers of the University and academic staff, as may be specified in the orders of the Syndicate and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or withholding of increments:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in clause (a).

(c) In any case where the inquiry discloses that penalty beyond the powers of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations and the Vice-Chancellor shall pass an order imposing any penalty:

Provided that an appeal shall lie to the Syndicate against an order of the Vice-Chancellor imposing any penalty.

(d) No appeal under clause (b) or clause (c) shall be preferred after the expiry of sixty days from the date on which the order appealed against was received by the appellant.

(3) Save as otherwise provided in this Act, the Registrar shall be the ex-officio Secretary to the Syndicate, the Academic Council, the Faculties and the Board of Studies, but shall not be deemed to be a member of any of these authorities:

(4) It shall be the duty of the Registrar, -

(a) to be the custodian of the records, the common seal and such other property of the University as the Syndicate shall commit to his charge;

(b) to issue all notice convening meetings of the Syndicate, the Academic Council, the Faculties, the

Boards of Studies, the Boards of Examiners and of any Committee appointed by the authorities of the University;

(c) to keep the minutes of all the proceedings of the meetings of the Syndicate, the Academic Council, the Faculties, the Boards of Studies, the Boards of Examiners and of any Committee appointed by the authorities of the University;

(d) to conduct the official correspondence of the Syndicate;

(e) to supply to the Chancellor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of the proceedings of such meetings; and

(f) to exercise such other powers and perform such other duties as may be specified in the statutes, the ordinances or the regulations or as may be required, from time to time, by the Syndicate or the Vice-Chancellor.

(5) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all process in such suits and proceedings, shall be issued to, and served on, the Registrar."

Section 20 speaks about powers of the Syndicate and it is relevant to quote Sub-Section (v) thereof:

"20(v)(i) to appoint the Assistant Professors, Associate Professors, Professors and the teachers of the University, fix their emoluments, if any, define their duties and the conditions of their services and provide for filling up of temporary vacancies;

(ii) to prescribe the mode of appointment of administrative and other similar posts and fix their emoluments, if any, define their duties and the conditions of their services and provide for filling up of temporary vacancies."

Section 25 speaks about Finance Committee and it is relevant to extract Sub-Section 8 thereof:

"25(8).The Finance Committee shall-

(a) review the financial position of the University, from time to time;

(b) make recommendation to the Syndicate on every proposal involving investment or expenditure for which no provision has been made in the annual financial estimates or which involves expenditure in excess of

the amount provided for in the annual financial estimates;

(c) prescribe the methods and procedure and forms for maintaining the accounts of the University;

(d) make recommendation to the Syndicate on all matters relating to the finances of the University; and

(e) perform such other functions as may be prescribed."

Chapter V of the Annamalai University Act, 2013 deals with Statutes, Ordinances and Regulations. Section 29 deals with Statutes and it is relevant to extract Sub-Section (j) and (k) thereof:

"Section 29(j). The qualifications of the teachers and other persons employed in the University;

(k) the classifications, the method of appointment and determination of the terms and conditions of service or teachers and other persons employed in the University."

Chapter VIII of the said Act deals with conditions of service and as per Section 44, subject to the provisions of the Act, procedure for selection, pay and allowances and other conditions of service of officers, teachers and other persons employed in the University shall be such as may be prescribed. As per explanation to the said Section - "For the purpose of this section, the word "officer" shall not include the Chancellor and the Pro-Chancellor".

Chapter IX of the said Act deals with Miscellaneous and it is relevant to extract Section 48 of the said Act:

"48. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or of any defect or irregularity in the election or nomination of a member of any authority or other body of the University or of any defect or irregularity in such act or proceeding not affecting the merits of the case or on the ground that the authority or other body of the University, did not meet at such intervals as required under this Act.

It is also relevant to extract Section 58(e) of the said Act:

"S.58(e) all appointment of the officers (other than the Vice-Chancellor and the Registrar), teachers and employees of the said University and subsisting immediately before the date of commencement of this Act

shall be deemed to have been made under, and for the purposes of, this Act, and such officers, teachers and employees shall continue to hold office, in the University which is deemed to have been established under this Act, subject to the conditions governing the terms of their office of employment;"

7. The primordial submission made by the learned counsel appearing for the appellants is that the contents of the impugned show cause notices exhibit pre-determination of mind to reduce the appellants to the lower rank and pay scale and if at all such a decision is sustainable, it is for the Syndicate of the respondent/University to take a call and not the Registrar of the University. It is also the submission of the learned counsel appearing for the appellants that under Section 58(e) of the Annamalai University Act, 2013, there is a protection available and since the Syndicate is a supreme body in the old as well as new Annamalai University Act, initiation of proceedings by the Registrar of University and seeking to set aside the resolution of the Syndicate is per se unsustainable and also without jurisdiction.

8. Section 11 of Annamalai University Act, 2013 speaks about Registrar and as per Sub-Section(f), Registrar or the respondent/University to exercise such other powers and perform such other duties as may be specified in the statutes, the ordinances or the regulations or as may be required, from time to time, by the Syndicate or the Vice-Chancellor. It is not even the case of the appellants/writ petitioners that such powers have not been delegated to the said official either by the Syndicate or by the Vice Chancellor.

9. It is useful to quote the following legal maxim:

"Omnia praesumuntur rite esse acta" - Literally. it means "All things are presumed to be done in due form"; in law, it implies that where it has been proved that an "official act" has been done, it will be presumed to be done in due form, until the contrary is proved.

10. Though it was open to the appellants/writ petitioners to invoke Section 51 of the Annamalai University Act, 2013 as well as by obtaining information under the Right to Information Act, such an exercise has not been and rushed to the Court immediately after the receipt of the show cause notices.

11. Let this Court analyze the legal position / law on show cause notice.

12. In Union of India and Another v. Kunisetty Satyanarayana [(2006) 12 SCC 28], show cause notice was issued to the respondent therein to show cause as to whether he obtained employment on forged caste certificate and subsequently, a charge memo was issued framing charges. Challenge was made to the said charge memo and it was allowed by the High Court of Andhra Pradesh and appeal was preferred before the Hon'ble Supreme Court by filing Special Leave Petition and it was entertained and converted as Civil Appeal. It is relevant to extract the following portions of the said judgment:

"14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

13. Earlier to the above cited decision, the Hon'ble Apex Court in New Samundri Transport Co. (P) Ltd. v. State of Punjab [AIR 1976 SC 57 : (1976) 1 SCC 757], held that even a show cause notice issued to a person must contain the allegations in a specific manner, so that, the person to whom the notice is issued would be in a position to controvert or deny any allegation.

14. In V.D.S.R. Re. Rolling Mill v. Special Commissioner & Commissioner of Land Administration [(2012) 5 MLJ 817], a Division Bench of this Court has considered the meaning to the word "notice" and in paragraph No.115 observed as follows:

"115. A notice, calling upon explanation or objection, is given, to arrive at a conclusion on facts. The purpose of issuing a show cause notice is to afford an opportunity to call for objections/reply to the auction proposed to be taken by the authority. No man should be condemned unheard. On receipt of the objections/reply, the authority has to consider and take a decision. There should be fairness and reasonableness and to prevent miscarriage of justice. Principles of natural justice is no more a straitjacket formula. It depends upon the subject matter and rests on the provisions. There must have been real prejudice to the one, who propounds violation and it has to be adjudged on the facts and circumstances of each case. The Court has to consider, whether there has been fairness and whether the decision could be arrived at in a just and objective manner, with relevance to the material on record. The Court has to see whether any actual prejudice has been caused to a person by the supposed denial of a particular right Judged in the light of the principles of law, enunciated by the Apex Court, in the case on hand, the prayer to issue fresh notice and an opportunity to be given would squarely fall within the Doctrine of "Useless formality". In the light of the principles of law and judged from the facts and circumstances, this Court sees that no prejudice has been caused to the petitioner and therefore, there is no violation of principles of natural justice."

15. The decisions cited above lay down the proposition that this Court, in exercise of it's discretionary jurisdiction in entertaining a writ petition under Article 226 of the Constitution of India, normally would not interfere with the same, unless it appears to have been issued without jurisdiction. Interference in show cause notice is warranted when it is issued with pre-meditation.

16. The order dated 21.09.2019 made in W.P(MD).Nos.11068 & 11069 of 2018 [M.Dhanasekara Pandian and another v. The Registrar, Annamalai University] relied on by the learned counsel appearing for the appellants has no application to the case on hand for the reason that challenge was made to the proceedings of the Registrar denying the recommendations of the 7th Pay Commission to certain employees of the University, by placing reliance upon Section 53 of the Annamalai University

Act, 2013. It is not as if the appellants/writ petitioners are going to be terminated /ousted from their jobs and for the purpose of striking a balance between the deteriorating financial position of the University, show cause notices have been issued and it cannot be found fault on the present facts and circumstances and also on the settled legal position with regard to the grounds of challenge.

17. As pointed out by this Court in earlier paragraphs, jurisdiction, competency or otherwise of the Registrar of the respondent/University to issue a show cause notice cannot be decided at this stage by this Court in these writ appeals in the absence of any tenable material or reason.

18. The appellants/writ petitioners, before approaching the Court, had failed to collect any information either by invoking Section 51 of the Annamalai University Act, 2013 or under the Right to Information Act and if any such information was obtained, it would have revealed that the Registrar of the respondent/University has not been delegated with such a power in terms of Section 11(1)(f) of the said Act.

19. It is also a well settled position of law that once an official act is done, it can be presumed that it has been done in due form till the contrary is proved.

20. As rightly pointed out by the learned Single Judge in the impugned common order, it is only a show cause notice calling for response with regard to the proposed action to be taken and it cannot be said that the contents of the same exhibit pre-determination of mind on the part of the respondent. The learned Single Judge has also dealt with the legal aspect as to the interference at the stage of show cause notice and while disposing of the writ petitions, had given certain directions in paragraph No.29, which would take care of the interest of the appellants/writ petitioners.

21. This Court is of the opinion that challenge to the impugned show cause notice is also pre-mature. This Court, on an independent application of mind to the entire materials, is of the view that there is no error apparent or infirmity in the reasons assigned by the learned Judge in the impugned common order passed in the writ petitions and finds no merit in these writ appeals.

22. It is also made clear that the findings/observations made herein are for the limited purpose of arriving at a decision for the disposal of these writ appeals and the same cannot be considered as a decision/findings on merits as to the stand taken by the appellants/writ petitioners in their

reply/response to the show cause notices and the respondents, in terms of the directions given in paragraph No.29 of the impugned order, shall act accordingly and the time limit granted by the learned Judge upto 30.07.2019 is extended till 31.01.2020.

23. In the result, all these Writ Appeals are dismissed, confirming the common orders dated 12.04.2019 made in W.P.Nos.26534 and 26509 of 2018, common order dated 05.03.2019 made in W.P.No.24186 of 2018, common order dated 10.04.2019 made in W.P.Nos. 26206, 26192, 26914 of 2018 and the order dated 12.03.2019 made in W.P.No.1528 of 2019, subject to above observations. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

Jvm

To

The Registrar (In-Charge)
The Annamalai University,
Annamalai Nagar,
Chidambaram 608 001.

+1cc to Mr.K.Sathish Kuamar, Advocate, SR.No.91710.
+6cc to Mr.Mr.Syed Mustafa, Advocate, SR.Nos.91655 to 91659.

Common Judgment in
W.A.Nos.3215, 3217, 3218, 3219,
3224, 3227 and 3231 of 2019

VBA (CO)
CSR (13/12/2019)

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