

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.NO.3740 OF 2019

S.Nageswari

.. Appellant/Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Higher Education Department,
Fort St. George, Chennai 600 009.
2. The University of Madras,
Rep. by the Registrar, Chempauk,
Chennai 600 005.
3. Director of College Education,
Office of the Director of Collegiate
Education, 9th Floor, EVK Sampath
Buildings, College Road, Chennai 600 006.
4. S.I.V.E.T. College,
Rep. by its Secretary,
Velachery Main road, Gowrivakkam,
Chennai 600 073.
5. Dr.S.Usharani
Principal

सत्यमेव जयते

.. Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 06.08.2019 passed in W.P.No.17697 of 2019 on the file of this Court.

W.P.No.17697 of 2019:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Quo Warranto, calling upon the 5th Respondent to show cause by what authority she claims to have use, handle and perform the rights, duties privileges of the office of the Principal in the fourth respondent College and consequently remove her from that post.

For Appellant : Mr.M.Ganesh

For Respondent : Mr.V.Jayaprakash Narayanan
Govt.Pleader for R-1
: Mr.C.Munusamy
Spl.G.P.(Edn) for R-3
: Mr.Stalin Abhimanyu for R-2

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for the appellant.

2.The selection of the fifth respondent, Dr.S.Usharani, was questioned by the appellant through a Writ of Quo Warranto giving rise to this appeal. The writ petition has been dismissed on 06.08.2019 holding that the appellant does not have any locus to question the said appointment, she being a retired professor of the Chemistry Department.

3.We do not propose to investigate the status of locus of the appellant inasmuch as the law is well settled that a Writ of Quo Warranto can be instituted for the ouster of an ineligible person holding a public office.

4.Mr.Stalin Abhimanyu, learned counsel for the University, informs the Court that the selection of the fifth respondent was disapproved by the University and the respondent no.4 College (S.I.V.E.T. College) has filed Writ Petition No.32231 of 2018 questioning the action of the University in disapproving the appointment, in which an interim order has been passed and the matter is being contested on exchange of affidavits.

5.It is the contention of the learned counsel for the University that the dismissal of the writ petition giving rise to this appeal is being cited as a defence on the part of the fifth respondent, as if her appointment has been upheld by this Court.

6.We may dispel this doubt that the dismissal of the writ petition on the ground of locus is nowhere an adjudication on the merits of the case and therefore, the dismissal of the writ petition giving rise to this appeal does not have any impact nor can it anyway influence the merits of the writ petition that has been filed by the College in relation to the selection of respondent no.5, which has to be decided on its own facts.

7.The Writ Appeal, therefore, does not deserve to be entertained, inasmuch as the issue relating to the correctness or otherwise of the selection of the respondent no.5 has been questioned in appropriate proceedings before this Court and consequently, we consign this appeal to records without prejudice to the rights of either of the parties that are to be adjudicated in the writ petition referred to hereinabove, which is pending consideration therein. It will be open to the learned counsel for the University to request the learned Single Judge hearing the writ petition for an expeditious disposal. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Principal Secretary to Govt. of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai 600 009.
2. The Registrar,
University of Madras,
Chepauk, Chennai 600 005.
3. The Director of College Education,
Office of the Director of Collegiate
Education, 9th Floor, EVK Sampath
Buildings, College Road, Chennai 600 006.

+1cc to Mr.M.Ganesh, Advocate, S.R.No.97915
+1cc to the Government Pleader, S.R.No.98905

W.A.No.3740 of 2019

EV(CO)
CS/30/12/2019

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