

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.08.2019

C O R A M:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.14327 of 2017

Thol.Thirumaavalavan

... Petitioner

Vs

1. The Chairman

University Grants Commission

2 Bahadur Jaffar Shah Marg

New Delhi 110 062.

2. The Principal Secretary to the

Governor of Tamil Nadu

Raj Bhavan

Chennai 600 113.

3. The Principal Secretary to Government

Department of Higher Education

Government of Tamil Nadu

Fort St. George

Chennai 600 009.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents herein to consider and dispose of the petitioner's representation dated 13/3/2017 on merits for ensuring adequate representation to SC/STs, women and Minorities in the appointment/nomination of Vice Chancellors and Governing Council, Board of Management, Syndicate and Senate Committees.

For petitioner

... Mr.M.Palanimuthu

For respondents

... Mr.P.R.Gopinathan
for R.1.

Mr.V.Kadhirvelu

Special Government Pleader

for R.R.2 and 3.

O R D E R

(Order of the Court was made by S.Manikumar, J)

Instant writ petition has been filed, to direct the respondents, to consider and dispose of the petitioner's representation, dated 13/3/2017, on merits, for ensuring adequate representation to SC/STs, women and Minorities, in the appointment/nomination of Vice Chancellors and Governing Council, Board of Management, Syndicate and Senate Committees.

2. Petitioner is a former M.P (Lok Sabha) and Member of Tamil Nadu Legislative Assembly. In Tamil Nadu, there are 21 State Universities, providing higher education, in accordance to Union Government Higher Education Policy and Guidelines of the Ministry of Human Resources, UGC and Tamil Nadu State Government Higher Education Department. Vice Chancellors for the State run Universities are appointed by the Chancellor-cum-Governor of Tamil Nadu as recommended by the Higher Education Department through a Search Committee Report. For the past three years and above, there are nine vacancies of Vice Chancellor's post, 8 vacancies of regular Registrar post, and 10 vacancies of regular Controller of Examination posts unfilled, for untold reasons. It is like only human body without head and also heart and shoulder.

3. Because of the long pending vacancies of Vice Chancellor's post, regular Registrar and Controller of Examination posts, in many Universities, no convocation functions were held for the past three years and Under Graduate and Post Graduate passed out students academically cannot proceed for further studies in India and abroad and seek for employment opportunities. In appointing Vice Chancellors to the State run Universities, no adequate representation is given to SC/STs, women and minorities, according to the Constitutional provisions and population in Tamil Nadu. According to the population, there must be 5 Vice Chancellors from SC/ST community, 7 women Vice Chancellors and 5 Vice Chancellors from different minority communities, but the fact is very painful.

4. There is no prescribed limitation in numbers and criteria for appointment of members, for the Governing Council, Board of Management, Syndicate and Senate Committee of these State run 21 Universities. As and when required, these members are appointed, according to their wish and will of the

appointing authorities without following any norms of educational qualifications, social and economical status.

5. There is immediate need in filling up of the nine vacancies of the Vice Chancellors post. There must be adequate representation to SC/ST, women and minorities, in appointment of Vice Chancellors with adequate representation to SC/STs, in the Governing Council, Board of Management, Syndicate and Senate Committees of all the Universities. Hence, petitioner made a representation, dated 11/3/2017, to the respondents. Since the representation has not been disposed of, petitioner has come forward with the present writ petition, praying for the relief as stated therein.

6. Learned counsel for the petitioner submitted that very recently, Vice Chancellors for two Universities were appointed and there is no response from the government for providing adequate representation to SC/STs, women and Minorities, in appointment/nomination of Vice Chancellors and Governing Council, Board of Management, Syndicate and Senate Committees of all the 21 State run Universities.

7. Even though many competitive candidates are available from these categories, not even a minimum representation is given to these categories, in appointment of Vice Chancellors and in the constitution of Governing Council, Board of Management, Syndicate and Senate Committees of all Universities, SC/STs, Women and Minorities are wantonly and wilfully ignored by the Government of Tamil Nadu.

8. In the table below, the petitioner has presented the status of Governing Council, Board of Management, Syndicate and Senate Committees in some of the State run Universities in Tamil Nadu,

Sl. No.	Name of University	Syndicate Members	Senate Members
1	Alagappa University	9	8
2	Anna University	8	---
3	Annamalai University	10	21 (Academic)
4	Bharathiyar University	20	289
5	Bharathidasan University	19	265

Sl. No.	Name of University	Syndicate Members	Senate Members
6	Madurai Kamarajar University	24 (10 vacant)	---
7	Manonmaniam Sundaranar University	8	217
8	Mother Teresa Women's University	Executive Council (17)	Academic Committee (49)
9	The Tamil Nadu Dr.M.G.R.Medical University	Governing Council (14)	259
10	Tamil Nadu Dr.Ambedkar Law University	15	49
11	Tamil Nadu Agricultural University, Coimbatore	12	Academic Committee (6)
12	Periyar University, Salem	20	209
13	Tamil Nadu Veterinary and Animal Sciences University	Board of Council (15)	Academic Committee (31)
14	Tamil University, Thanjavur	12	35
15	Thiruvallurvar University	7	Academic Committee (19)
16	University of Madras	23	134
17	Tamil Nadu Teachers Education University	--	---
18	Tamil Nadu Open University	11	Academic Committee (19)
19	Tamil Nadu Physical Education and Sports University	--	---
20	Tamil Nadu Fisheries University, Nagapattinam	---	---

9. Additional Secretary to the Government, Higher Education Department, Chennai, has filed a counter affidavit, dated 22.01.2019, and the same reads thus:-

"With reference to the averments made in paragraph Nos.5, 6 and 7 of the affidavit, it is submitted that

(i). In respect of University of Madras, Prof. Dr.P.Duraisamy was appointed as Vice-Chancellor by the Chancellor and he has taken charge of the office of the Vice-Chancellor on 27.05.2017. A N Regarding the post of Registrar, as per the resolution of the Syndicate as its meeting held on 03.10.2017 appointment order has been issued to Dr.R.Srinivasan, Associate Professor of Econometrics, IDE and he has taken charge as Registrar on 04.10.2017. Regarding the appointment of Controller of Examinations, Thiru K. Pandiyan, Associate Professor, Department of Inorganic Chemistry has been appointed to the post on 09.11.2018. The 159th Annual Convocation for students in the batches 2014-15 and 2015- 16 was held on 15.07.2017.

(ii). In respect of Annamalai University, Dr. V. Murugesan was appointed as Vice-Chancellor of the University. The terms and conditions for the appointment of Registrar and Controller of Examinations are prescribed in the draft Statutes 2016 of Annamalai University and sent for the assent of the Chancellor / Hon'ble Governor. The assent of the Chancellor / Hon'ble Governor is awaited. At present, Dr.M.Ravichandran, Professor of Soil Science and Agricultural Chemistry and Dr.RM.Chandrasekaran, Professor of Computer Science and Engineering are placed as in-charge for the post of Registrar and Controller of Examinations respectively, with the approval of the Syndicate.

(iii). In respect of Madurai Kamaraj University, the Government in G O. (1D) No.253, Higher Education (H2) Department, dated 04.08.2018 have constituted a Search Committee consisting of three members including Dr.C.Thangamuthu, Syndicate's nominee to recommend a panel of three names to the Hon'ble Governor-Chancellor for the appointment of Vice-Chancellor of Madurai Kamaraj University. The Hon'ble High Court of Madras in its orders, dated 04.09.2018 in W.P. No.22253/2018 filed by Thiru A. Mahalingam, set aside the nomination of Dr.C.Thangamuthu, on the grounds that the process of selection is flawed. Based on the above orders, the Government have issued orders in G.O. (D) No.360, Higher Education (H2) Department, dated 14.11.2018 reconstituting search committee for appointment of Vice-Chancellor to the University. Now, the

Chancellor has appointed Dr.M. Krishnan, Professor (Retd), Bharathidasan University as Vice-Chancellor of Madurai Kamaraj University.

(iv). Dr.P.Jagadeesan and Dr.Muthiah Mariappan belong to SC category and served as Vice-Chancellor to the Bharathidasan University/ Dr.P.Manishankar was appointed as Vice-Chancellor of the University. There is no communal representation for the post of Vice-Chancellor as per Bharathidasan University Act 1981 (Tamil Nadu Act 2 of 1982). Regular Registrar and Controller of Examinations were appointed to the above University.

It is submitted that Annual Convocation for Bharathidasan University has been conducted every year and degree certificates are issued to the passed out students from time to time without any delay. It is also informed that the dates of convocation held in Bharathidasan University for the past five years. 29th Convocation -06.03.2013, 30th Convocation - 25.11.2013, 31st Convocation - 23.11.2014, 32nd Convocation - 05.11.2015, 33rd Convocation -14.10.2016.

(v). In respect of Bharathiar University, the post of Vice-Chancellor is vacant. The Convenor Committee look after the routine affairs of the University. The post of Registrar is vacant because, Dr.K.G.Senthilvasan, former Registrar, Bharathiar University has filed Writ Petition Nos. 16296/2016 and 32924/2016 before this Hon'ble Court of Madras. The University has also filed the affidavit seeking permission from the Court for the appointment of Registrar and to vacate the Status quo. However, Registrar (i/c) has been appointed to look after the routine affairs of the University. The post of Controller of Examinations is also vacant. However, the Controller of Examinations (i/c) has been appointed to look after the routine and academic matters of the University. Action is being taken to fill up the post of Controller of Examinations.

(vi). In respect of Mother Teresa Women's University, Dr. (Tmt) G. Valli was appointed as Vice-Chancellor of the University. Regular Registrar and Controller of Examinations were appointed to the above University.

(vii). In respect of Alagappa University, Dr.N.Rajendran was appointed as Vice-Chancellor of the University. Regular Registrar and Controller of Examinations were appointed to the above University.

Convocation was conducted during the past three years on 29.01.2015, 17.11.2015 and 13.10.2016.

(viii). In respect of Manonmaniam Sundaranar University, Dr. K. Baskar was appointed as Vice-Chancellor of the University. Regular Registrar and Controller of Examinations were appointed to the above University.

(ix). In respect of Periyar University, Dr. P.Kolandaivel was appointed as Vice-Chancellor of the University. Regular post of Registrar and Controller of Examinations were vacant. However, Registrar (i/c) and Controller of Examinations (i/c) were appointed to look after the routine affairs of the University. Action is being taken to fill up the above posts.

(x). In respect of Thiruvalluvar University, Dr.K.Murugan, Professor and Head, Department of Zoology, School of Life Sciences, Additional Director, DRDO- BU, Life Science Centre, Bharathiar University, Coimbatore, who belongs to Scheduled Caste has been appointed by the Chancellor as Vice-Chancellor and assumed charge as Vice-Chancellor with effect from 08.02.2016 for a period of three years.

With regard to the post of Registrar, there is no regular Registrar with effect from 21.09.2015 since the tenure period of three years of Dr.M.Jayakumar as Registrar has been completed on 20.09.2015. At present, Dr.V.Peruvalluthi, Dean, College Development Council is holding full additional charge for the post of Registrar with effect from 21.02.2017. Action is being taken to fill up the post of Registrar.

With regard to the post of Controller of Examinations, Dr.B.Senthil Kumar, Professor and Head, Department of Zoology is holding full additional charge for the post of Controller of Examinations with effect from 21/2/2017. Advertisement was published on 25.11.2016 in the Dailies inviting applications. Applications had been received. Scrutiny and Selection process will be initiated as soon as the Governor's Nominee is received from the Governor's Secretariat.

(xi). In respect of Tamil Nadu Open University Dr.M.Bhaskaran was appointed as Vice-Chancellor of the University. The post of Registrar is vacant. However, the Registrar (i/c) was appointed to look after the routine affairs of the University. Regular Controller of Examinations was appointed in the

University.

(xii). In respect of Tamil Nadu Teachers Education University, the posts of Vice-Chancellor and the Controller of Examinations are not vacant. The Registrar post is alone vacant from 04.02.2017. The amendment proposal by the University to re-fix the qualification for the post of Registrar as per University Grants Commission norms is being processed by the Governor's Secretariat. After getting the assent of the Governor- Chancellor, the post will be filled up soon.

The convocation of Tamil Nadu Teachers Education University is regularly conducted and degrees awarded in time. The convocation for 2015-2016 batch of students was held on 04.03.2016.

It is further submitted that the Tamil Nadu Teachers Education University has been established to promote Excellence in Teacher Education in the State. The post of Vice-Chancellor is usually not earmarked for any particular community and applications are invited irrespective of all community.

(xiii). In respect of Anna University, Dr. M.K. Surappa was appointed as Vice- Chancellor of the University. Regular post of Registrar and Controller of Examinations were vacant from 24.11.2017 and 04.03.2018 respectively. However, Registrar (i/c) and Controller of Examinations (i/c) were appointed to look after the routine affairs of the University. Action is being taken to fill up the above posts.

(xiv). In respect of Tamil Nadu Dr. M.G.R. Medical University, Dr. Sudha Seshayyan was appointed as Vice-Chancellor. The Registrar was appointed on 19.09.2016. Regarding the post of Controller of Examinations, the said post is vacant from 20.05.2013 in the University. However, a Medical Officer has already been placed in the charge of the post of Controller of Examinations and all the duties related to Controller of Examinations in the University is being discharged without any delay. Further action is being taken to fill up the post of Controller of Examinations.

This University is regularly conducting the convocations for the past four years (1. 26th Convocation held on 02.09.2014, 2. 27th Convocation held on 30.04.2015, 3. 28th Convocation held on 03.12.2016 and 4. 29th Convocation held on 06.09.2017).

(xv). In respect of Tamil Nadu Dr. Ambedkar Law University, Prof.Dr.Tamma Suryanarayana Sastry was appointed as Vice-Chancellor of the University. The appointment to the posts of 'Registrar' & 'Controller of Examinations' of this University has to be made under Chapter III-A of the Statutes of the Tamil Nadu Dr. Ambedkar Law University Act, 1996. (Tamil Nadu Act 43 of 1997).

Accordingly,

(a). a notification has been published in the New Indian Express and Daily Thanthi on 16.08.2015 inviting applications for the posts of 'Registrar' and 'Controller of Examinations' in the Tamil Nadu Dr. Ambedkar Law University. Totally, 2 applications have been received for each post, within the stipulated period;

(b). The meeting of the duly constituted Selection Committee for interviewing and selection of candidates for the said posts was conducted on 3rd June 2016. For the post of Registrar, eligible candidates have appeared before the Selection Committee. With regard to the post of 'Controller of Examinations', the eligible candidate who was called for to appear before the Selection Committee was not present.

(c). The minutes of the Selection Committee Meeting held on 03.06.2016 when placed before the Syndicate at its 145th meeting held on 06.06.2016 was resolved as 'Deferred'.

(xvi). In respect of Tamil Nadu Agricultural University, Dr. N Kumar was appointed as Vice-Chancellor of the University. The post of regular Registrar and Controller of Examinations are vacant. In respect of Tamil Nadu Agricultural University, Convocation function was regularly conducted by Tamil Nadu Agricultural University for the past 3 years without any break viz., 1) During 2014, Convocation was held on 26.08.2014 2) During 2015, Convocation was held on 17.08.2015 and 3) During 2016, Convocation was held on 15.10.2016.

(xvii). In respect of Tamil University, Dr.G.Balasubramanian was appointed as Vice-Chancellor of the University. Regular Registrar was appointed in the University. The post of Controller of Examinations is vacant. However, Controller of Examinations (i/c) was appointed to look after the routine affairs of the University.

It is submitted that the Syndicate of the Tamil University at its meeting held on 19.08.2005 has resolved to create one post of Controller of Examinations and also in view of the financial position of the Tamil University, the above post is being filled as additional charge. The Syndicate of the Tamil University in its meeting dated 28.12.2005 has resolved to appoint one Professor as Controller of Examinations as an additional charge. On the basis of the above resolution, the following Professors acted as Controller of Examinations as additional charge.

SI. No.	Name of the Professor	Period	
		From	To
1.	Dr. T.K. Paramasivam, Professor, Department of Palmleaf Manuscripts	19.08.2005	06.10.2006 (FN)
2.	Dr. K. Annadurai, Professor, Department of Scientific Tamil and Tamil Development	06.10.2006 (AN)	24.06.2007
3.	Dr. H. Chittiraputhiran, Professor, Department of Lexicography	25.06.2007	07.05.2009
4.	Dr. M. Jegadeesan, Professor, Department of Environmental and Herbal Sciences	08.05.2009	02.08.2012
5.	Dr. E. Angayarkanni, Professor, Department of Music	03.08.2012	30.06.2016
6.	Dr. C. Subramanian, Professor, Department of Social Sciences	01.07.2016	05.10.2016

Now, Dr. K. Shankar, Professor, Department of Industries and Earth Sciences is working as Controller of Examinations as additional charge from 06.10.2016 onwards.

(xviii). In respect of Tamil Nadu Physical Education and Sports University Dr. Sheila Stephen was appointed as Vice-Chancellor of the University. Registrar and Controller of Examinations were appointed to the above University.

(xix). In respect of Tamil Nadu Fisheries University Dr.S.Felix was appointed as Vice-Chancellor of the University. The post of Registrar is vacant and Dr. A. Srinivasan is holding additional charge of the post of Registrar. Regular Controller of Examinations was appointed in the University.

(xx). In respect of Tamil Nadu Veterinary and Animal Sciences University Dr.C.Balachandran was appointed as Vice-Chancellor of the University on 05.04.2018.

5. With reference to the averments made in the paragraphs 8, 9, 10 and 12 of the affidavit, it is submitted that, (i) As per Section 14 (a)-Other members (9) - of the Madras University Act, 1923, (Tamil Nadu Act 7 of 1923) among the fifteen members to be nominated by the Chancellor to the Senate, not less than ten (10) SC/ ST members shall be nominated. The following members representing the SC / ST Category were nominated by the Hon'ble Governor-Chancellor to the Senate for a period of 3 years vide G.O. (Ms) No.316, Higher Education (H1) Department, dated 03.10.2018 and G.O. (D) 343, Higher Education (H1) Department, dated 31.10.2018.

1.	Dr.l. Manivannan, Ph.D. IAS. (Retd), #15, 21 st Main Road, Anna Nagar West, Chennai-600 040.	6.	Dr. K. Alagesan, Head of Department of Commerce, Vivekananda College, Tiruvedakam West, Madurai - 625 234.
2.	Dr.K.Sathish Kumar, Scientist-G / Chief Scientist & Head, Advances Seismic Testing and Research (ASTaR) Laboratory, CSIR-Structural Engineering Research Centre, CSIR Campus, CSIR Road, Taramani, Chennai-600 113.	7.	Dr.P. Kannapiran, Assistant Professor of Commerce and Head, Department of Commerce, Government Arts College, Udhagamandalam - 643 002. Res : 309/C3 Missionary Hill, Stone House (PO), Udhagamandalam-643 002.
3.	Dr.S.Kanmani, Professor and Director, Centre for Environmental Studies, Department of Civil Engineering, Anna University, Chennai-600025.	8.	Dr.S.Renganathan, Professor, Department of Biotechnology, A.C. Tech Campus, Anna University, Chennai-600 025.

4.	Thiru K.M. Sadhanandh, Managing Director and Principal Town Planning Consultant, Maxcon Town Planning and Development Pvt. Ltd. 2 nd Floor, Majestic Tower, 101, Eldams Road, Teynampet, Chennai-600 018.	9.	Dr.K.Kesavan, Principal Scientist, Structural Health Monitoring Laboratory, CSIR-Structural Engineering Research Centre, Taramani, Chennai-600 113.
5.	Dr.G.Umadevi, Faculty of Civil Engineering Department, Division of Transportation Engineering, College of Engineering, Guindy, Anna University, Chennai-25.	10	Dr.P.S. Ambily, Senior Scientist, CSIR-Structural Engineering Research Centre, Taramani, Chennai-600 113.

It is further submitted that with regard to SC/ST representation in the Syndicate/Academic Council of University of Madras, there is no provision in the Madras University Act, 1923. There is no provision in the Madras University Act, 1923, for representation of SC / ST, Women and minorities in the appointment of Vice-Chancellor.

(ii). According to Section 19 (2) (d) of Annamalai University Act, 2013, (Tamil Nadu Act 20 of 2013), the Syndicate of Annamalai University consists One member nominated by the Chancellor from Scheduled Castes / Scheduled Tribes, Most Backward, Backward or Minority Classes on the recommendation of the Government. In this category, Thiru M. Umamageswaran, (Most Backward Class), No.48, Puthu Pillaiyar Koil Street, Mel Bhuvanagiri, Bhuvanagiri (TK), Cuddalore (Dist), is nominated as Syndicate member by the Chancellor based on recommendation of the Government.

(iii). As per Chapter-III, Section 15, Class-III Other Members (7) Madurai Kamaraj University Act, 1965, (Tamil Nadu Act 33 of 1965), Ten members nominated by the Chancellor of whom not less than five shall be nominated to secure the representation of the Scheduled Castes and Scheduled Tribes not otherwise adequately represented to the Senate.

(iv). It is submitted that as per the Bharathidasan University Act, 1981, (Tamil Nadu Act 2 of 1982), there is no provision for SC / ST

representative in the Syndicate of the University. However, one SC member is in the Syndicate. Section 20 under chapter III Class-11 Other Members - Sub-section (7) (a) of Bharathidasan University Act, 1981 reads as follows:-

"Six members nominated by the Pro-Chancellor of whom not less than three shall be nominated to secure the representation of the Scheduled Castes and Scheduled Tribes not otherwise adequately represented" to the Senate.

It is also submitted that out of 82 Senate members, 14 members alone become members to the senate by virtue of nomination. Out of which 3 seats were reserved for SC/ST category.

(v). There is no specific provision in the Bharathiar University Act, 1981, (Tamil Nadu Act 1 of 1982), for communal representation in the Syndicate. However, 2 women and 2 SC / ST members are in the syndicate. Nearly 45% members in the Senate of Bharathiar University are women.

(vi). As per Chapter-IV, Section 23, Class-11 Other Members (3) of Mother Teresa Women's University Act, 1984 (Tamil Nadu Act 15 of 1984), One woman member belonging to Scheduled Castes or Scheduled Tribe is nominated by the Pro-Chancellor to the Executive Council.

(vii). As per Chapter -III, Section 21 (a) Class II Other Members (4) of Alagappa University Act, 1985, (Tamil Nadu Act 23 of 1985), three members nominated by the Pro-Chancellor of whom not less than two shall be nominated to secure the representation of the Scheduled Castes and Scheduled Tribes not otherwise adequately represented to the Senate. According to the said provision, two members from SC / ST category were nominated to the Senate of Alagappa University by the Pro-Chancellor. In respect of Syndicate, there is no provision in the Act.

(viii). As per Chapter-III, Section 19 (a), Class-11 Other Members (7) (a) of the Manonmaniam Sundaranar University Act, 1990, (Tamil Nadu Act 31 of 1990), Six members nominated by the Pro-Chancellor of whom not less than three shall be nominated to secure the representation of the Scheduled castes and Scheduled Tribes not otherwise adequately represented to the Senate. There is no provision for representation of SC /ST, women and minorities in the Syndicate as per Manonmaniam Sundaranar University Act, 1990.

(ix). As per Section 24 (b), Class-11 Other

members (8) of the Periyar University Act, 1997, (Tamil Nadu Act 45 of 1997), one Scheduled Caste and Scheduled Tribes representative from the members of the Teaching Faculty is nominated by the Government to secure the representation of SC and ST in the Syndicate. As per Chapter-III section 20 (a) Class II - Other members (7) - Six members can be nominated by the Pro- Chancellor of whom not less than three shall be nominated to secure the representation of the Scheduled Castes and Scheduled Tribes not otherwise adequately represented to the Senate.

(x). In Thiruvalluvar University there is no provision in the Act of the University for SC / ST representative in the Syndicate and Academic Council.

(xi). In Tamil Nadu Open University there is no provision in the Act of the University for SC / ST representative in the Syndicate and Academic Council.

(xii). Syndicate members are nominated from all the communities including SC/STs as per provision of the Tamil Nadu Teachers Education University Act, 2008.

(xiii). In Anna University, there is no provision in the Act of the University for SC / ST representative in the Syndicate of the University.

(xiv). As per Chapter-IV, Section 18 (3) (i) of the Tamil Nadu Dr. M.G.R. Medical University Act, 1987 (Tamil Nadu Act 37 of 1987). One member each to be nominated by the Pro-Chancellor to secure the representation of the Scheduled Castes and the Scheduled Tribes to the Senate. There is no provision in the above Act for representation of SC/ST, women and minorities in the Governing Council of the University. However, there are 4 women members in the Governing Council. Accordingly, the following member had been appointed by the Pro-Chancellor of the University.

Dr.V.C.Subhash Gandhi,
Assistant Surgeon,
Government Hospital,
Annavasal,
Pudukottai District.

In the Senate of the Tamil Nadu Dr. M.G.R. Medical University, out of 260 members 111 (One hundred eleven) members are women members and 1 member is SC / ST.

(xv). The Tamil Nadu Dr. Ambedkar Law University is having adequate representation for SC/STs, Women and Minorities in Search Committee for appointment of Vice-Chancellor, Selection Committees for appointment of faculty members / administrative

staff members.

As per the Tamil Nadu Dr. Ambedkar Law University Act, 1996, the Tamil Nadu Dr. Ambedkar Law University is having adequate representation for SC / STs, Women and Minorities in Governing bodies viz., Syndicate and Academic Senate, which is detailed below:-

Syndicate : Under Section 22, Class-11 (Other Members (e) & (f)) under Chapter IV of the Tamil Nadu Dr. Ambedkar Law University Act, 1996 "One Member nominated by the Government to secure representation of the SC/ST and MBC & DNC from among the members of the legal profession or from the members of the law teaching faculty", Thiru V. Shanmuga Sundar, Advocate and Thiru R. Master Ganesh, Advocate have been nominated as Members to the Syndicate of the Tamil Nadu Dr. Ambedkar Law University.

Academic Senate : As per section. 29 (1), Class - I (Ex-Officio Members) under Chapter IV of the Tamil Nadu Dr. Ambedkar Law University Act, 1996, The President of the Madras High Court Women Advocates Association, Tmt. V. Nalini, President, Women Lawyers' Association has been nominated as Member to the Academic Senate of this University. Section 29 (1), Class-I (Ex-Officio Members) under Chapter IV of the Tamil Nadu Dr. Ambedkar Law University Act, 1996, permits the Members of the Syndicate who are not otherwise members of the Academic Senate as members of the Academic Senate. Thiru V. Shanmuga Sundar, Advocate and Thiru R. Master Ganesh, Advocate had been nominated as members to the Academic Senate of the Tamil Nadu Dr. Ambedkar Law University.

(xvi). In the Board of Management of Tamil Nadu Agricultural University, there is one member belonging to SC. In Academic Council of the above University, there are 2 members belonging to SC and ST. It is submitted that the members of the Syndicate and Senate are nominated or elected as per the Tamil University Act, 1982 (Tamil Nadu Act 9 of 1982). As per the statutes of the University, three members nominated to the Senate by the Pro-Chancellor of the Tamil University of whom not less than two shall be nominated to secure the representation of the Scheduled Castes and Scheduled Tribes not otherwise adequately represented to the Senate.

(xviii). In Tamil Nadu Physical Education and Sports University, representatives of SC/ST are included as members in the Board of Studies, Academic Council, Syndicate and Selection Committee for

recruitment of Teaching and Non-teaching staff of the University.

(xix). In Tamil Nadu Fisheries University the details of SC / ST and Women representative in the Board of Management and Academic Council of the University are as follows:-

SI.No.	Name of the Statutory Body	Total Members	Re	representatives of	
			SC/ST	Women	Minorities
1.	Board of Management	13	01	02	02
2.	Academic Council	17	01	01	03

• As per Tamil Nadu Veterinary and Animal Sciences University Act 1989 (Tamil Nadu Act 42 of 1989), the constitution of Board of Management Chapter -IV Section 18 (2) Class - II - Other members of the Tamil Nadu Veterinary and Animal Sciences University Act is as follows :-

(d) One woman social worker nominated by the Chancellor to the Board of Management.

6. It is submitted that out of 13 Universities under the control of Higher Education Department, Vice-Chancellors were appointed in 12 Universities and action is being taken to fill up the post of Vice-Chancellor in Bharathiar University.

7. It is submitted that representation of SC / ST, women and minorities in the University authorities are made as per the provision of respective University Acts. However, SC / ST, women and minorities are holding office, as University authorities based on their merits and credentials. There is no specific provision in the University Acts for representation of SC / ST, women and minorities in the appointment of Vice-Chancellor."

Heard Mr.M.Palanimuthu, learned counsel for the petitioner, Mr.P.R.Gopinathan, learned counsel for the first respondent and Mr.V.Kadhirvelu, learned Special Government Pleader for the respondents 2 and 3.

10. Going through the counter affidavit of the Additional Secretary to the Government, Higher Education Department, it is clear that appointment to the Office of Vice Chancellor, Registrar, Syndicate and Senate Members, is as per the provisions of the respective statutes. Besides, the procedure for selecting a candidate to the office of Vice Chancellor, Registrar, as the case may be, is set out in the statutes.

11. Though the petitioner has contended that going by the population of Scheduled Castes/Scheduled Tribes, Women and Minorities, there should be adequate representation in the abovesaid offices, said averment is neither supported nor substantiated by any constitutional provision, unlike in the case of the Representation of Peoples Act, 1951. In the counter affidavit filed in the month of January' 2019, the Additional Secretary to the Government, Higher Education Department, Government of Tamil Nadu, has stated about various steps taken to fill up the vacancies to the office of Vice Chancellor, Registrar, etc., as per the statutory provisions. Contention of the petitioner that according to whims and fancies, appointments have been made, cannot be countenanced, for the reason that such appointments were not challenged by the unsuccessful candidates.

12. Though the petitioner has set out the number of syndicate or senate members, in the State run Universities, he has not ascertained from the respective Universities, as to whether, such members have been nominated, as per the statutes. Though several Universities have been mentioned, judicial notice can be taken that invariably, office of the Vice Chancellor, is filled up on the recommendations of a Search Committee. To illustrate, as per Madurai Kamaraj University, Office of the Vice Chancellor, is filled up, in this manner. Chapter V of the Madurai Kamaraj University Act, 1965, reads thus,

"3. When any temporary vacancy occurs in the office of the Vice-Chancellor, the Syndicate shall, as soon as possible, subject to the approval of the Chancellor, make the requisite arrangements for exercising the powers and performing the duties of the Vice-Chancellor.

4. When a permanent vacancy occurs or is about to occur in the office of the Vice-Chancellor, the Registrar shall under direction of the Syndicate cause a notification of the fact to be published in the Gazette and take immediate steps for the constitution of the committee referred in the statute mentioning the date and hour of the last date for filing

nominations and the place, date and hour for the scrutiny of the nomination papers. The date for filing nominations must be at least 14 clear days after the date of publication of the notification. A copy of the said notification shall be sent to the Chancellor and to each of the members of the Senate and the Syndicate and placed at the next meeting of the Syndicate immediately after the publication of the notification.

5. The Committee referred to in Statue 1 shall consist of 3 persons of who one shall be nominated by the Senate of the University, one by the Syndicate of the University and one by the Chancellor, provided that the person nominated shall not be a member of any of the authorities of the University.

6. (1) Each member of the Senate shall have a right to nominate not more than one person who is not a member of any of the authorities of the University, to the committee referred to in statute 5. Similarly each member of the Syndicate shall have a right to nominate not more than one person who is not a member of any of the authorities of the University to the said Committee.

(2) The Registrar shall call for nominations for election of person by the members of the Senate and one person by the members of the Syndicate to the said Committee.

(3) Every nomination shall be in writing signed by the proposer who shall be a member of the Senate and seconded in writing by another member of the Senate called the seconder in the form prescribed (Vide Appendix). No nomination shall be valid unless it contains the signature of both the proposer and the seconder.

(4) The nomination form shall also be signed by the person, proposed expressing his consent to be nominated.

(5) Every nomination must be presented before the Registrar either by the proposer or the seconder or the person proposed, before 3 p.m on the date notified as on the date for filing nomination under Statute 4.

6. Soon after the expiry of the last date and hour for receipt of nominations, the Registrar shall scrutinize the nomination papers at the place, date and hour notified under Stature (4). The proposer or the seconder or the proposed nominees are entitled to be present at the time of the scrutiny. A list of persons whose nominations have been declared valid by

the Registrar shall be published on the notice board of the office of the University. A copy of the list shall be sent to the persons nominated for election if he or they were not present at the time of scrutiny.

7. Any person whose nomination had been declared valid may withdraw his nomination by a letter in writing and presented to the Registrar in person not later than 7 clear days after the date of publication of valid nominations or by a letter writing and attested by any other member of the Senate and sent by registered post to the registrar so as to reach him not later than the above said 7 clear days after the date of publication of the above said nominations. Such withdrawal once made shall be final.

8(a) If the number of persons validly nominated and who have not withdrawn is only one that person shall be deemed to have been duly elected and nominated by the Senate to the Committee referred to in Statute 5 and shall be so declared by the Registrar.

(b) If the number of person validly nominated and who have not withdrawal is more than one each member of the Senate shall be informed of the date and hour fixed by the Vice-Chancellor for the meeting and a list of such persons shall be sent to each member of the Senate not less than ten clear days fixed for the meeting.

(c) The election shall be held at the next ordinary meeting of the Senate immediately preceding the date when the office of the Vice-Chancellor shall fall vacant, provided that the Vice-Chancellor shall convene a special meeting of the Senate for election of the nominee if he thinks it necessary.

(d) The election shall be conducted by secret ballot at the place specifically set apart for the purpose and the ballot box properly locked and sealed shall be provided to receive the votes of the nominees.

(e) All members present at the meeting shall be entitled to vote. No vote can be given by proxy. Members present shall sign in the nominal electoral roll kept for the purpose as a record of voting at the election.

(f) Before a member is ready to vote, the Registrar shall ascertain and satisfy himself that the person desiring to vote is a member who has not already voted. The Registrar shall then enter his name upon the counterfoil of the ballot paper in the ballot

paper book which shall be provided for the purpose of the election and shall then tear out the ballot paper corresponding to the counterfoil and having initialled the ballot paper on the back thereof shall hand it over to the member. Every ballot paper, shall contain the names of all nominees arranged in alphabetical order.

(g) When a member has received a ballot paper, he shall proceed to the place arranged for marking the vote and shall mark thereon by "X" against the name for whom he intends to vote. The number of nominees for whom each elector may vote shall be only one. The member shall then fold the ballot paper and drop it in the ballot box placed in front of the returning officer.

(h) If a member inadvertently spoils a ballot paper, he may return it to the Registrar, who shall if satisfied of such inadvertence, give him another paper, and retain the spoiled paper; and this spoiled paper shall be immediately cancelled and the fact of such cancellation shall be noted on the counterfoil.

(i) Two scrutinisers shall be selected by the Chairman of the meeting of the Senate to count the votes polled. The counting shall be done in the presence of the members of the Senate present and the Chairman. Persons securing the highest number of votes shall be declared by the Chairman of the meeting to have been duly elected and nominated by the Senate to the Committee referred to in Statute 5.

9. Chairman of the meeting held for the purpose of the election under Statute 5, shall conduct other items of business, if any, but the business of electing a member to the committee shall precede all other business and shall be disposed of before the meeting is adjourned or before any other item, if any, on the agenda is considered.

10(1) The Statutes in this Chapter relating to the procedure for nomination and election of a person by the Senate to the Committee referred to in statute 5 shall as far as may be necessary apply to the nomination and election of a person by the Syndicate to the committee mentioned in Statute 5, the word "Syndicate" being read in substitution of the word "Senate" wherever necessary.

(2) Notwithstanding anything contained herein it shall be competent for the syndicate to elect such nominee to the Committee by a resolution assented to

by the majority of the members of the Syndicate after obtaining the consent of the concerned nominee to serve on the committee.

11. The Registrar shall report to the Chancellor of the names of the persons elected by the Senate and the Syndicate to the Committee. After the Chancellor nominates the third member to the committee, the names of the members of the committee shall be published in the gazette. The member nominated by the Chancellor shall be the convener of the committee.

12. The Committee shall meet soon after the names of 3 members are published and submit to the Chancellor a panel containing the names of 3 persons suitable for holding the office of the Vice-Chancellor. While submitting the panel to the Chancellor the Committee shall also send a statement showing the age, educational qualification, academic and administrative experienced and other distinctions of each of the 3 persons whose names are included in the panel. The panel shall be in alphabetical order.

13. The Chancellor shall appoint one of the persons whose names are given in the panel as the Vice-Chancellor."

13. From the material on record, it could be deduced that following Universities do not have any provision for SC/ST representation in the Syndicate,

- (i) Madras University Act, 1923
- (ii) Bharathidasan University Act, 1981
- (iii) Bharathiar University Act, 1981
- (iv) Alagappa University Act, 1985
- (v) Manonmaniam Sundaranar University Act, 1990
- (vi) Dr.M.G.R.Medical University Act

14. The following Universities have provisions for appointment of SC/ST representative, in Syndicate,

(i) Annamalai University Act, 2013 - Section 19 (2)(d) of the said Act, states that the Syndicate of Annamalai University consists One member nominated by the Chancellor from Scheduled Castes / Scheduled Tribes, Most Backward, Backward or Minority Classes on the recommendation of the Government.

(ii) Periyar University Act, 1997 - Section 24(b) of the said Act, states that one Scheduled Caste and

Scheduled Tribes representative from the members of the Teaching Faculty is nominated by the Government to secure the representation of SC and ST in the Syndicate.

(iii) Tamil Nadu Dr.Ambedkar Law University Act, 1996 - Section 22, Class-II (Other Members (e) & (f)) under Chapter IV states that "One Member nominated by the Government to secure representation of the SC/ST and MBC & DNC from among the members of the legal profession or from the members of the law teaching faculty",

15. In Tamil Nadu Agricultural University Act, 1971, though there are members, belonging to SC/ST community in the Syndicate, from the counter, it is not clear, as to whether, there is any provision for representation of SC/ST or women or minorities, in the syndicate.

16. Though no specific provision is shown in Tamil Nadu Teachers Education University Act, 2008, it is stated that syndicate members are nominated from all the communities, as per the extant provision. In respect of Tamil Nadu Physical Education and Sports University Act, 2004, it is stated in the counter affidavit that syndicate members are nominated from all the communities including SC/STs.

17. From the counter affidavit, it could be seen that the following Universities do not have any provision for SC/ST representation in the senate, academic council, board of management, etc.,

- (i) Thiruvallur University Act, 2002
- (ii) Tamil Nadu Open University Act, 2002
- (iii) Anna University Act, 1978

18. Thus, from a cursory look at the details furnished by the Secretary to the Government, Higher Education Department, though all the above Universities are formed under the enactments of State, there is no uniformity. Reasons for providing representation to SC/ST or Women, as the case may be, in some Universities alone and not in other Universities are not explained in the counter affidavit.

19. On the facts and circumstances of the case, this Court only observes that if there is a provision, providing

representation to SC/ST or Women, in Syndicate or Academic Council or Senate, etc., in some Universities run by the State, there is no reason, as to why, it should not be there in other Universities also.

20. Though the representation of the petitioner does not contain the relevant provisions, from the contents of the counter affidavit, this Court is of the view that what is considered and discussed, requires to be examined by the Government. Insofar as the Office of the Vice Chancellor is concerned, it is by selection. As per the statutes, there is no reservation.

21. When selection is the process for post or office, as the case may be, contemplated in the statutes, it cannot be contended that there should be a mandate that representation should be made on the basis of the population. If there are eligible candidates, they can always apply to the post or office, as the case may be, whenever notified and if there is any irregularity or illegality, it is always open to the unsuccessful candidate to challenge the selection.

22. Before parting with the case, though Mr.M.Palanimuthu, learned counsel appearing for the petitioner submitted that the petitioner does not want pickle or Biriyanis, only wants food, this Court does not appreciate his submission.

23. For the reasons, stated supra, the Government of Tamil Nadu, represented by the Secretary to the Government, Higher Education Department, is directed to consider the above, within a period of two months, from the date of receipt of a copy of this order.

24. Accordingly, the writ petition is disposed of. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

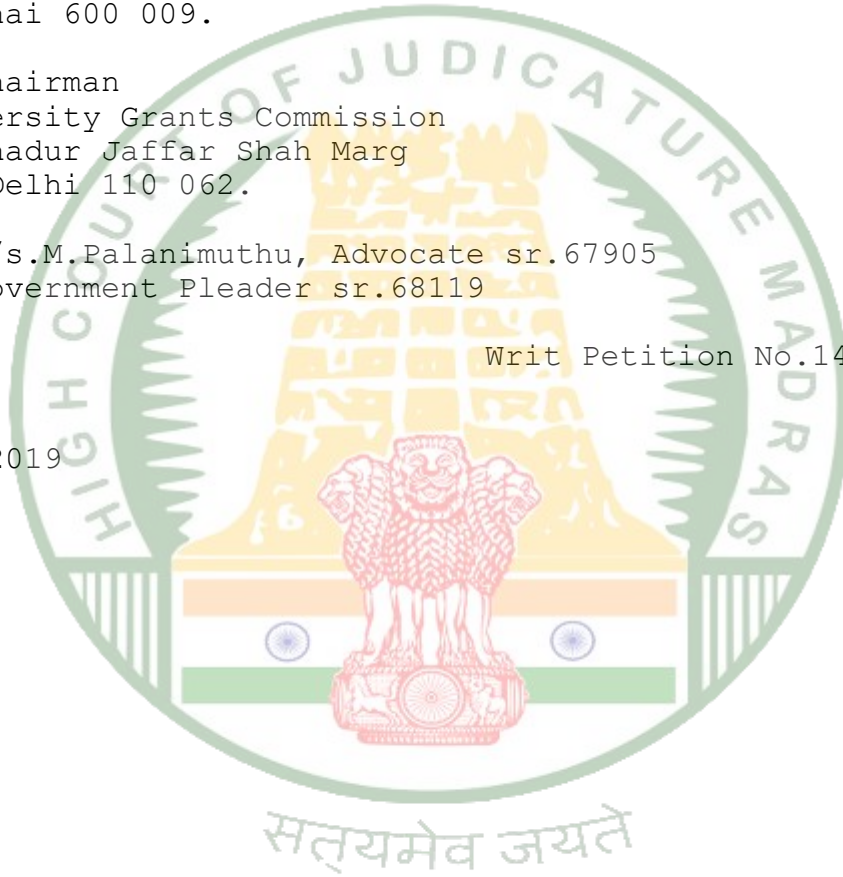
To

1. The Principal Secretary to the
Governor of Tamil Nadu
Raj Bhavan
Chennai 600 113.
2. The Principal Secretary to Government
Department of Higher Education
Government of Tamil Nadu
Fort St. George
Chennai 600 009.
3. The Chairman
University Grants Commission
2 Bahadur Jaffar Shah Marg
New Delhi 110 062.

+1cc to M/s.M.Palanimuthu, Advocate sr.67905
+1cc to Government Pleader sr.68119

Writ Petition No.14327 of 2017

cnr(co)
nr 20/09/2019



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