

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.A.No.2852 OF 2018

1.University of Madras
rep. By its Registrar,
Chepauk, Chennai 5

2.University Constituent College,
University of Madras Arts and Science College,
Thiruvottiyur, Chennai 19 ... Appellant

versus

Dr.K.Palanisamy ... respondent

Appeal filed against the order passed by this Court dated 7.12.2018 in W.M.P.No.37820 of 2018 in W.P.No.32617 of 2018.

W.P.No.32617/2018:

Writ Petitions and writ miscellaneous petition filed under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) Issue a writ in the nature of writ of certiorari or any other writ or order or direction to call for the records pertaining to the proceedings of the 1st respondent in proceedings NIL dated 2.7.2018 and to quash the same as illegal, incompetent and ultravires (in WP.No.32617/2018) and

(ii) Dispense with the production of the original of the impugned proceedings of the 1st respondent in proceedings NIL dated 2.7.2018 for the present (in WMP.No.37818/2018) and

(iii) Grant an order of ad-interim stay of operation of the impugned proceedings of the 1st respondent in proceedings NIL dated 2.7.2018 (in WMP.No.37820/2018) pending disposal of the above WP.No.32617/2018 respectively.

For appellant : Mr.L.P.Shanmugasundaram
For Respondents : Mr.D.Selvam

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The respondent was relieved from the post of Principal, Madras University with immediate effect and he was directed to join as Assistant Professor in Political Science, by reporting to the Director, Institute of Distance Education, by order dated 2 July 2018. The learned Single Judge in the Writ Petition filed by the respondent, directed the University to keep its resolution dated 28 June 2018 in abeyance. Feeling aggrieved, the University has come up with this appeal.

2. This Court, taking into account the prima facie case made out by the appellants, passed an order of interim stay of operation of the order passed by the learned Single Judge till the disposal of the appeal.

3. The respondent proceeded as if on account of the resolution dated 28 June 2018 and the subsequent order dated 2 July 2018, he would not be permitted to function as Assistant Professor in Political Science.

4. The appointment of the respondent as Principal was subjected to an enquiry by the Syndicate. The Syndicate issued a show cause notice to the respondent indicating that he does not possess the requisite qualification for appointment to the post of Principal. In short, the non possession of the requisite qualification in accordance with the norms prescribed by the University Grants Commission made the University to take action against the respondent and the same resulted in passing an adverse order against him.

5. The learned single Judge without discussing the prima facie case, balance of convenience and irreparable injury, straightaway passed an order directing the University to keep the resolution dated 28 June 2018 in abeyance.

6. The question as to whether the respondent is eligible for appointment to the post of Professor and as to whether his termination is legal, are all matters to be decided in the Writ Petition. The University permitted the respondent to work as Assistant Professor in its Institute of Distance Education.

7. The learned counsel for the respondent submitted that the respondent was not given posting in spite of the order dated 2 July 2018.

8. We direct the University to permit the respondent to work as Assistant Professor in the Institute of Distance Education, as indicated in the order dated 7 December 2018.

9. The learned Standing Counsel for the Madras University submitted that it is open to the appellant to join as Assistant Professor in Political Science forthwith. The said statement is recorded. The order dated 7 December 2018 is set aside.

10. We direct the appellants to file its counter affidavit in W.P.No.32617 of 2018, within a period of three weeks from today. It is open to the parties to move the learned Single Judge, as per roster, for an early disposal of the Writ Petition.

11. The intra court appeal is allowed as indicated above. No costs. Consequently, connected M.P.s, are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

tar

To

1.The Registrar,
University of Madras
Chepauk, Chennai 5

2.University Constituent College,
University of Madras Arts and Science College,
Thiruvottiyur, Chennai 19

+1 CC to Mr.D.Selvam, Advocate sr 14543.

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 14880.

W.A.No.2852 OF 2018

RSV(CO)
SP(21/03/2019)

सत्यमेव जयते

WEB COPY