



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
11.11.2019	22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.3619 of 2019

and

W.M.P. (MD) Nos.2831 & 2832 of 2019

and

W.P. (MD) No.5724 of 2019

and

W.M.P. (MD) No.4518 of 2019

W.P. (MD) No.3619 of 2019:

G.Ramakrishnan

... Petitioner

-vs-

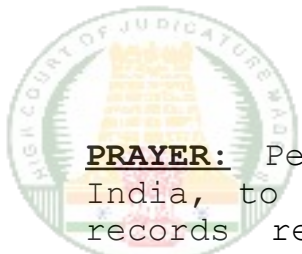
1.The Government of Tamilnadu
Through its Principal Secretary
Higher Education Department
St.George Fort, Chennai

2.Dr.M.Jagadesh Kumar

3.The Registrar
Tamilnadu Teachers Education University
Kamarajar Salai
Ashok Nagar
Chennai-600 083

4.The Chancellor
Tamilnadu Teachers Education University
Raj Bhavan
Chennai

... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the proceedings of the Notification-IX by G.O.Ms.No.187, Higher Education (K-2) and published in the Government Gazette dated 14.07.2017 in so far as Tamilnadu Teachers Education University Act and quash the same and further directing the respondents to prescribe the educational qualification for the post of Vice Chancellor of Teachers Education University as Ph.D. in Teachers Education and knowledge in Tamil.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.A.Muthu Karuppan
Additional Government Pleader for R1
Mr.Om Prakash, Senior Counsel
Assisted by Mr.U.Venkatesan for R3
No appearance for R2 & R4

W.P. (MD) No.5724 of 2019:

Dr.S.Francisca

... Petitioner

-vs-

- 1.The State of Tamilnadu
Through its Principal Secretary
Higher Education Department
St.George Fort
Chennai-9
- 2.Dr.M.Jagadesh Kumar
- 3.The Registrar
Tamilnadu Teachers Education University
Kamarajar Salai
Ashok Nagar
Chennai-600 083
- 4.The Chairperson
National Council for Teacher Education
Hans Bhavan, Wing II
1, Bahadur Shah Zafar Marg
New Delhi-110 002



5.The Chancellor
Tamilnadu Teachers Education University
Raj Bhavan
Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the impugned notification-IX by G.O.Ms.No.187, Higher Education (K-2) and published in the Government Gazette dated 14.07.2017 and quash the same as illegal in so far as amending the qualification for the post of Vice-Chancellor of Tamil Nadu Teachers Education University and prescribing administrative experience of 6 years.

For Petitioner: Mr.T.Lajapathi Roy

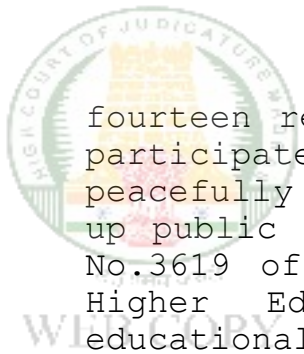
For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.A.Muthu Karuppan
Additional Government Pleader for R1
Mr.Om Prakash, Senior Counsel
Assisted by Mr.U.Venkatesan for R3
Mr.Su.Srinivasan for R4
No appearance for R2 & R5

C O M M O N O R D E R

T.S.SIVAGNANAM, J.,

As the reliefs sought for in both the writ petitions are identical, inasmuch as the petitioners have challenged G.O.Ms.No.187, Higher Education (K-2), dated 14.07.2017, the writ petitions were heard together and are disposed of by this common order.

2. The petitioner in W.P.(MD) No.3619 of 2019 has had an illustrious academic career and joined Madurai Kamaraj University as Lecturer in the year 1984 and retired as Associate Professor in the year 2014. He has served as a Member of the Search Committee constituted for the selection of Vice-Chancellor to the Madurai Kamaraj University. Further, the petitioner, during his tenure as Lecturer and Associate Professor, is stated to have published



fourteen research papers and six books on Education. He has also participated in several seminars and conferences and he is now peacefully retired from service and stated to be involved in taking up public cause. With this background, the petitioner in W.P.(MD) No.3619 of 2019 challenges the Government Order in G.O.Ms.No.187, Higher Education (K-2), dated 14.07.2017, which prescribes educational qualification for the post of Vice-Chancellor of Tamil Nadu Teachers Education University to possess Ph.D. Degree in any discipline.

3. It is the contention of the petitioner that a Teachers Education University is a Single Disciplinary University and a Professional University and therefore, the Ph.D. Degree should be in Education. It is the submission of the petitioner that the past three Vice-Chancellors had Ph.D. Degree in Education.

4. The petitioner in W.P.(MD) No.5724 of 2019 has also had illustrious academic career having completed Ph.D. Degree in the year 1999 and stated to have adequate qualification for holding the post of Vice-Chancellor. She possesses 30 years of teaching experience and research experience, authored one book, edited four books and four monographs and so far nineteen scholars have been awarded Ph.D. Degree under her guidance. She would state that though she is fully eligible to apply for the post of Vice-Chancellor, due to arbitrary amendment, prescribing administrative experience of six years, she is deprived of participation in the recruitment process.

5. The grounds raised in both the writ petitions are more or less similar and the submissions of the learned counsels for both petitioners are identical.

6. The learned counsels for the petitioners have drawn the attention of this Court to the provisions of the National Council for Teacher Education Act, 1993 (in short, NCTE Act); the provisions of the Tamil Nadu Teachers Education University Act, 2008 as it stood prior to the amendment and post amendment in 2017; the notification issued for Anna University and submitted that all other Single Disciplinary Universities, such as Tamil Nadu M.G.R.Medical University, Dr.Ambedkar Law University, Anna University, Tamil Nadu Agriculture University, Tamil Nadu Animal Husbandry University, Tamil Nadu Music University, Tamil Nadu Sports and Games University and Thanjavur Tamil University prescribe the qualification for Vice-Chancellor as Ph.D.Degree in the same subject for which the respective Universities are established.

7. Further, it is submitted that there is no reasonable nexus for prescribing Ph.D. Degree in any discipline for a Single Disciplinary University. Further, it is submitted that in terms of the provisions of the Tamil Nadu Teachers Education University Act,



2008, the Vice-Chancellor shall be the Academic Head of the University and while doing so, he is construed to be a Teacher and as per the norms laid down by the National Council for Teacher Education (in short, NCTE), a Ph.D. Degree in Education is required. Therefore, there is absolutely no nexus for prescription of Ph.D. Degree in any discipline for the respondent University, a Single Discipline University.

8. Further, it is submitted that the NCTE Act being a Central enactment, it would override the Tamil Nadu Act, more particularly, when the respondent University is a recognized Institution under Section 14 of the NCTE Act.

9. The learned counsels for the petitioners referred to the decision of the Honourable Supreme Court in the case of **Kalyani Mathivanan vs. K.V.Jeyaraj and others**, reported in **(2015) 6 SCC 363** and referred to the portion of the Judgment of the Division Bench of this Court, which has been extracted in the said decision, wherein the Court has made certain observations with regard to the role of the Vice-Chancellor and how he is required to be an academician. The decision of the Division Bench of this Court has been reversed by the Honourable Supreme Court.

10. Apart from the above common grounds, one other ground raised by the petitioner in W.P.(MD) No.5724 of 2019 is that the prescription of 20 years of experience in teaching in Post Graduate College is arbitrary and the same should be set aside.

11. The Government as well as the respondent University have filed separate counter affidavits, wherein it has been stated that the qualification requiring Ph.D. Degree in any discipline for the post of Vice-Chancellor has been prescribed to make possible for many academicians to apply for the post of Vice-Chancellor and to have a broad base selection to identify an outstanding and eminent scholar for the post of Vice-Chancellor.

12. Further, by referring to UGC Regulations, 2018, it is submitted that proper weightage to academic excellence, exposure to higher education system and adequate experience in academic and administrative governance are insisted upon, not on doctorate degrees in specific disciplines. Further, if the Ph.D. Degree in any discipline is narrowed down to the Ph.D. Degree in Education, the number of candidates applying for selection to the post of Vice-Chancellor would get reduced, consequently, the outstanding academicians in other disciplines will not stand a chance for selection.

13. Further, it is contended that the other Universities are



having their field of study and research in only one discipline and the petitioner has not drawn any line of comparison or reference to the Tamil Nadu Teachers Education University.

14. The respondent University, in their counter affidavit, have stated that the ideology of the Government of Tamil Nadu behind prescribing the present qualification for the post of Vice-Chancellor is to have a broader database to select an extraordinarily outstanding and eminent academician as Vice-Chancellor and there is no error in fixing such qualification. Further, it is submitted that Vice-Chancellor of Tamil Nadu Teachers Education University will have the assistance of Boards of Studies in UG and PG, Board of Studies for four years integrated B.Sc., B.Ed., Degree Programmes, Board of Research Studies and the Academic Council and therefore, the respondent University would state that it is not essential that the candidate should possess Ph.D. Degree in Education and there is no such requirement under Section 11 of the Tamil Nadu Teachers Education University Act, 2008.

15. On the above grounds, the learned counsels for the respondents seek to sustain the impugned Government Order.

16. The learned Additional Advocate General appearing for the Government would submit that on account of the interim order granted by this Court, though the selection process had been completed, no appointment could be made and the University is put to great prejudice without a Vice-Chancellor being appointed.

17. We have heard the learned counsel on either side.

18. The short issue, which falls for consideration is whether this Court invoking jurisdiction under Article 226 of the Constitution of India, by way of a public interest litigation, can interfere with the amendment to the Tamil Nadu Teachers Education University Act, 2008 and the Rules framed thereunder prescribing educational qualification for selection to the post of Vice-Chancellor of the respondent University.

19. The impugned amendment prescribes as one of the qualifications a Ph.D. Degree in any discipline. Apart from that, the other qualifications are also prescribed, which show that unless the candidate has sufficient teaching experience, he / she would not be eligible to apply. At this juncture, we quote the amendment made to the Tamil Nadu Teachers Education University Act, 2008 in terms of G.O.Ms.No.187, Higher Education (K-2), dated 14.07.2017:

"(3) The holder of the post of Vice-Chancellor shall be an academician, who shall have



- (i) experience of at least eight years as an University Professor of any University; or
- (ii) experience of at least fifteen years of service as Reader of any University or Reader of any affiliated college."

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20. The argument before us is that there is no nexus between prescription of Ph.D. Degree in any discipline instead of a Ph.D. Degree in Teaching. Prescription of qualification for recruitment to a post is a condition, which has to be decided by the employer and it will be well open to the employer to insist upon higher qualification than what has been prescribed under the Rules. We find that there is no embargo under the Tamil Nadu Teachers Education University Act, 2008 that the candidate should poss Ph.D. Degree in Education and such a condition is mandatory. We, exercising jurisdiction under Article 226 of the Constitution of India, are not rule making authorities. The Courts do not enact statutes or laws, but interpret the laws. The justification is that the pool of candidates, who will apply for the post, will be larger, if a Ph.D. Degree in any discipline is imposed as one of the conditions. If Ph.D. Degree in Teaching alone is insisted, this will substantially reduce the candidates, who will be eligible to apply. We are able to perceive such a situation as seldom come across candidates possessing Ph.D. Degree in Education. A Teacher, who possesses Ph.D. Degree in any discipline is deemed to possess basic education skills, because they undergo the rigorous training while they do their graduation or post graduation doctoral programme. It is no doubt true that a Teacher working in a Teachers Education Institution, especially teaching post-graduate students, will be a Teacher of Teachers. However, it does not mean that such Teacher is not a student of the Teacher. Therefore, the distinction sought to be drawn by the petitioners is not acceptable and the reasons given by the State Government to have a broad base selection with larger pool of candidates definitely has a reasonable nexus to the object sought to be achieved and it cannot be treated to be an arbitrary exercise of power for the Court to direct the candidate to study Ph.D. Degree in any discipline.

21. Prescription of qualification for selection of candidates to a post is the realm of the Government. Very often experts and academicians give their valuable inputs to the Government and qualifications are prescribed. When such is the discretion vested with the State, we would not be justified in treading into such a territory. It is not the case of the petitioners that the impugned amendment suffers from the vice of lack of jurisdiction or in other words, lack of legislative competence nor there is any plea raised by the petitioners that any of the fundamental rights guaranteed under the Constitution of India have been infringed. These can only be the grounds to challenge the constitutional validity of any statute. The plea raised by both the



petitioners, if examined closely, would show that the candidate with Ph.D. Degree in Teaching alone is more suitable. It is not for us to decide such aspect and these matters are left to the academicians themselves.

22. We are informed that the challenge to the very same impugned Government Order by the Tamil Nadu Self Financing College of Education Management Association was dismissed by the Division Bench of this Court, by Judgment dated 18.02.2019 in W.P.No.4583 of 2019.

23. The decision in the case of **Kalyani Mathivanan** (supra) rendered by the Division Bench of this Court could not be referred to support the arguments of the learned counsels for the petitioners as the decision of the Division Bench referred to in the said decision has been overruled by the Honourable Supreme Court. In any event, we have assigned independent reasons as to the validity of the impugned Government Order.

24. For all the above reasons, we find that there is absolutely no ground made out by the petitioners to interfere with the amendments impugned in the writ petitions.

25. In the result, the writ petitions fail and they are dismissed. The interim order, dated 18.02.2019, in W.M.P.(MD) No.2832 of 2019 in W.P.(MD) No.3619 of 2019 is hereby vacated. The respondents are directed to proceed to select and appoint the Vice-Chancellor to the respondent University, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

krk

To:

The Principal Secretary,
Higher Education Department,
Government of Tamilnadu,
St.George Fort, Chennai.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-100838[F] dated 25/11/2019)

+1cc to M/s.T.LAJAPATHI ROY, ADVOCATE, SR NO 100961

+2 CC to M/s.U.VENKATESAN, Advocate (SR-100601[F] dated 22/11/2019),100599



+1CC TO M/S.SU.SRINIVASAN, ADVOCATE, SR NO.101426

+1 CC to M/s.SPL GP (SR-101110[F] dated 25/11/2019),101108

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