



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

and

THE HONOURABLE **MRS.JUSTICE R.THARANI**

Writ Petition (MD).No.23422 of 2019

and

W.M.P(MD).Nos.20062 and 20064 of 2019

K.Annamalai

... Petitioner

Vs.

- 1.The Secretary to Government of India,
Ministry of Human Resources Development,
Department of Higher Education,
New Delhi-110001.
- 2.The Secretary,
Department of Personnel and Training,
New Delhi-110001.
- 3.University Grants Commission,
rep., by its Chairman,
Bahadur Shah Zafar Marg,
New Delhi-110 002.
- 4.The Chancellor,
Gandhigram Rural Institute (deemed to be University),
Gandhigramam, Dindigul District.
- 5.The Vice Chancellor (I.C)/Chairperson,
Board of Management,
Gandhigram Rural Institute (Deemed to be University),
Gandhigramam, Dindigul District.
- 6.M.Natarajan I.A.S
Chancellor nominee in Board of Management
Gandhigram Rural Institute (Deemed to be University),
Gandhigram, Dindigul District.
- 7.Captain Rajesh Unni
Chancellor nominee in Board of Management
Gandhigram Rural Institute (Deemed to be University),
Gandhigramam, Dindigul District.
- 8.K.Prasanna Sai
Chancellor nominee in Board of Management



Gandhigram Rural Institute (Deemed to be University),
Gandhigramam, Dindigul District.

9.The Registrar,
Gandhigram Rural Institute (Deemed to be University),
Gandhigramam, Dindigul District. ... Respondents

WEB COPY

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 and 2 to appoint a new Vice Chancellor of Gandhigram Rural Institute (Deemed to be University) after reconstitute the Board of Management, by replacing the respondents 6 to 8 by the suitable persons at the rank of professor and then to form a search cum selection committee in order to sponsor five persons for the selection of V.C.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.Ma.Pa.Thangavel
4 to 9

For RR 1 to 2 : Mr.P.Subbiah, CGSC

ORDER

(Order of the Court was made by **T. S. SIVAGNANAM, J.**)

This writ petition has been filed as Public Interest Litigation by alumnus of the Gandhigram Rural Institute (Deemed to be University), Gandhigramam, Dindigul District. The petitioner has sought for issuance of Writ of Mandamus to direct the respondents 1 and 2 to appoint a new Vice Chancellor for the Institution after reconstituting the Board of Management by replacing the respondents 6 to 8 by suitable persons at the rank of Professor and then, to form a Search-cum-Selection Committee in order to sponsor five persons for selection of Vice Chancellor of the Institution.

2.Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner submitted that the petitioner is interested in the welfare of the respondent Institution and he also has keen interest in its development and only for that purpose, the present writ petition has been filed and at no point of time, the petitioner is attempting to interdict the selection process of the new Vice Chancellor.

3.It is submitted by the learned counsel that in terms of the Memorandum of Association and Rules of the Gandhigram Rural Institute, which was amended in accordance with UGC (Institution deemed to be University) Regulation, 2010 and its amendment in 2014, 2015 and 2016 and duly approved by UGC and Ministry of Human Resources Development (MHRD), Government of India, stipulate the constitution of Board of Management. In this regard, the learned



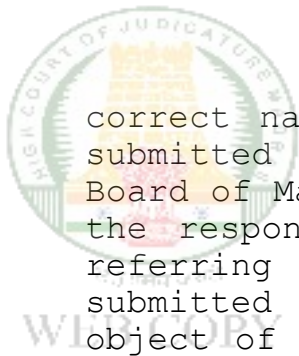
counsel has drawn the attention of this Court to Rule 7.0, which deals with Governance System. Referring to Rule 7.8, it is submitted that the Board of Management shall comprise (i) Vice Chancellor, who is the Chairperson, (ii) Two Deans of faculties (by rotation based on seniority), (iii) Three eminent academicians as nominated by Chancellor, (iv) One eminent academic to be nominated by UGC, (v) Two teachers (One from Professors, one from Associate Professors) by rotation based on seniority, (vi) One eminent academician to be nominated by MHRD, (vii) A representative of MHRD not below the rank of Director/DS.

4.It is submitted that contrary to the above, the private respondents have been included in the Board of Management, which is unsustainable. It is further by referring to UGC (Institutions deemed to be Universities) Regulations, 2016, submitted that Rule 7.8 of the Memorandum and Rules of the respondents University is in tune with Regulation No.5.7 of the UGC Regulations. Therefore, It is submitted that the Constitution of the Board of Management is not in accordance with the stipulation in the Rules and therefore, before a Search Committee is constituted for selection of the Vice Chancellor of the respondent Institution, the Board of Management has to be reconstituted.

5. Further, it is submitted that the nomination of three eminent academicians should be from persons, who have worked at the rank of Professor and shall neither be from the Institution or the sponsoring body nor be the relative. It is submitted that this is the stipulation under the UGC Regulation, which has to be scrupulously followed. Further, it is submitted that merely because high proprietary people and people from the Corporate Sector are nominated under this category will not satisfy the requirement as the UGC Regulation has clearly spelt out the requirement. Therefore, it is submitted that the writ petition be ordered and Board of Management will be directed to be reconstituted and then Search Committee will be appointed to conduct the selection process for the post of Vice Chancellor of the respondent University Institution.

6. By placing reliance on the decision of the Hon'ble Division Bench in the case of **M.Lionel Antony Raj Vs., P.P.Chelladurai** reported in **2018 (4) CTC 225**, it is submitted that the importance of the Search Committee has been highlighted and if the Search Committee to be constituted by the respondent Institution with members of the Board, who do not satisfy the qualification under the UGC Regulation, then the constitution of Search Committee itself would be illegal. Therefore, the learned counsel prays that the writ petition to be ordered.

7.Mr.Ma.Pa.Thangavel, learned counsel appearing for the respondent University submitted that the name of the sixth respondent has been wrongly mentioned as M.Natarajan, IAS, but the



correct name of the sixth respondent is M.Nagarajan, IAS. It is submitted that the nomination of respondents 6 to 8 as Members of Board of Management is in accordance with the memorandum of Rules of the respondent Institution r/w UGC Regulation, 2016. Further by referring to the credentials of those three respondents, it is submitted that all three of them are people of eminents and the object of nominating them to the Board of Management is to improve the standard of education in the Institution and to take forward the cause, for which the Institution was founded.

8. Further, it is submitted that the Vice Chancellor of the respondent Institution had raised a query as to whether the nomination done by the Chancellor to the Board of Management is legally tenable or not. This query was referred to an Advocate of the Supreme Court of India for rendering his opinion. The learned Advocate after considering the memorandum of Rules of the respondent Institution and the UGC Regulation had opined that the nomination of the respondents 6 to 8 as members of the Board of Management for furtherance of the objective of the Institution in the changing scenario of Higher Education in India as well as Abroad is in accordance with the provisions of the relevant Rules and in uncertain terms stated that there is no illegality in nominating those three persons to the Board of Management of the Institution. Apart from that, the learned counsel has also drawn the attention of this Court to the qualification of all those three individuals and found that they are suitable persons to occupy the said post and the decision of the Chancellor of the Institution, namely, the first respondent is correct.

9. In reply, the learned counsel for the petitioner submitted that perusal of the UGC (Institution deemed to be University) Regulation 2009 notified on 20.02.2019 clearly shows that there is no distinction drawn between the Government Institution and Non-Governmental Institution and therefore, it is clear that the stipulation contained in Regulation 5.7 of the 2016 Regulation should be scrupulously followed.

10. The learned counsel appearing for the first respondent submitted that the procedure to be followed under the UGC Regulation has been strictly adopted and there is no error in nominating the respondents 6 to 8 to the Board of Management.

11. After elaborately hearing the learned counsel for parties and carefully considering the materials placed on record, we find that there is no error in the nomination of the respondents 6 to 8 as Members of the Board of management. In this regard, it will be relevant to refer some Clauses of the UGC 2016 Regulation, which was notified on 11.07.2016. Regulation 5.7 deals with the constitution of the Board of Management and the persons, who will form a school of Management as stipulated in Clause i to ix of Clause 5.7. Class



contained in the Regulation, the Governance System and Management structure of a Government Controlled Institution deemed to be University may be in accordance with the decision of the Central Government or the State Government, as the case may be.____

12. The said clause clearly cares out an exception in respect of Government control Institution deemed to be University. The respondent Institution is one such deemed to be University controlled by the Central Government. Therefore, the constitution of the Board of Management in respect of the respondent University may be in accordance with the decision of the Central Government or State Government. Even this decision is not unregulated, Clause 5.6 of the UGC 2016 Regulation states that the Board of Management shall consist of eminent persons capable of contributing to and upholding University ideals and traditions. Thus Regulation 5.10 read with 5.6 will clearly show that there can be no error attributed to the nomination of the respondents 6 to 8 as members of the Board of Management of the respondent Institution. So far as the UGC 2019 Regulation is concerned, the same was notified only on 20.02.2019 and therefore, the same cannot be relied on to negate the nomination of respondents 6 to 8, who were admittedly shown under the 2016 Regulation r/w memorandum of Rules of the respondent Institution and their nominations having been done under the 2016 Regulations, the power exercised by the Central Government cannot be held to be invalid for any reason, more particularly the reason assigned by the petitioner in the writ petition. Thus, for the above reason, we are of the clear view that the direction sought for in this writ petition cannot be granted.

13. In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

Rmk

+1 CC to M/s.P.SUBBIAH, Advocate (SR-96779[F] dated 07/11/2019)

+1 CC to M/s.R.SURIYANARAYANAN, Advocate (SR-96787[F] dated 07/11/2019)

+1 CC to M/s.MA.PA.THANGAVEL, Advocate (SR-96764[F] dated 07/11/2019)

Writ Petition (MD).No.23422 of 2019

_KK/SAR/17.12.2019/5P-4C/