

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No. 303 of 2020
and
W.M.P. No. 348 of 2020

D.S.Mahendran

... Petitioner

Vs

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Higher Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Collegiate Education,
E.V.K. Sampath Buildings,
College Road,
Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,
Finance (In-Charge),
Office of Directorate of Collegiate Education,
Chennai - 600 006.
- 4.The Regional Joint Director of Collegiate Education,
Gandhi Nagar, Tirunelveli - 627 008.
- 5.The Secretary Aditanar College of Arts and Science,
Virapandiyanpatnam - 628 216,
Tiruchendur, Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the third respondent passed in proceedings Na.Ka.No. 14336/F4/2019 dated 25.10.2019 and the consequential order passed by the fourth respondent in Na.Ka.No.2261/U3/2019 dated 19.12.2019 and quash the same and direct the respondents 1 to 4 to approve the appointment of petitioner as principal in the fifth respondent college with effect from 01.06.2018 with salary and other benefits.

For Petitioner : Mr.P.Ebenezer Paul
For Respondents 1 to 4 : Mr. E.Manoharan
Special Government Pleader
For Respondent 5 : Mrs.R.Gowri

O R D E R

This Writ Petition has been filed challenging the order passed by the third respondent in his proceedings dated 25.10.2019 and the consequential order passed by the fourth respondent in his proceedings dated 19.12.2019 and for consequential direction to direct the respondents to approve the appointment of the petitioner as Principal of fifth respondent college.

2. The case of the petitioner is that the post of principal fell vacant in the fifth respondent college due to retirement of the incumbent on 31.05.2018. The fifth respondent college invited applications for filling up the post of principal from among qualified Assistant Professors. An advertisement was also given in this regard in the newspapers inviting applications from qualified candidates. Based on this invitation, seven applications were received, out of which two applications pertain to the candidates who are already serving in the fifth respondent college and five applications pertain to the candidates who applied from open market.

3. The fifth respondent college scrutinized the applications of the seven candidates and found that only two candidates are eligible and five other candidates were found ineligible. The fifth respondent college requested the Manonmaniam Sundaranar University which is the affiliating University to nominate the persons for constituting the selection committee as per the U.G.C. Regulations. A selection committee constituting of seven members was constituted. The two candidates who were found eligible were interviewed by the committee and the selection committee found that the petitioner is more meritorious and therefore he was selected to the post of Principal in the fifth respondent college.

4. The petitioner was appointed by the fifth respondent college through appointment order, dated 30.05.2018. The fifth respondent college thereafter, forwarded the papers for the approval of appointment of the petitioner as Principal of the college. Certain clarifications were sought for and it was also replied by the fifth respondent college. Ultimately, the impugned order came to be passed whereby, the files were returned on the ground that there was no member in the selection committee belonging to SC/St community. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Mr. Ebenezer Paul, learned counsel appearing on behalf of the petitioner submitted that the impugned order passed by the respondents suffers from non application of mind and that the order is not in line with the requirements of the U.G.C. Regulations. Learned counsel brought to the notice of this Court the relevant regulations of U.G.C. and submitted that the requirement of SC / ST member in the selection committee is mandatory only where one of the applicant represents those communities and participates in the selection process. Learned counsel submitted that in the present case, only two candidates were called for the interview and both the candidates belonged to Backward Community and therefore there was no requirement to have a member belonging to SC / ST community in the selection committee. Learned counsel submitted that the impugned order passed by the respondents is liable to be set aside and consequential directions must be given to the respondents to approve the appointment of the petitioner with all consequential benefits.

6. Learned counsel appearing on behalf of the official respondents submitted that from the particulars that have been furnished by the fifth respondent University, there is absolutely no indication with regard to the community to which five other applicants who participated in the selection belong to. Learned counsel submitted that, even though, ultimately only two members were called for the interview, it is the duty of the fifth respondent college to furnish with all the details and clarify whether any candidate who participated in the selection belonged to SC/St community. Learned counsel submitted that list of candidates that has been furnished before this Court shows that except the petitioner and the other candidate who were called for the interview, there is no mention with regard to community and caste of the five other applicants who participated in the selection. Therefore, the learned counsel concluded his arguments by submitting that once this query is clarified by the fifth respondent college, the same will be considered and appropriate orders will be passed with regard to granting of approval for the appointment of the petitioner.

7. Learned counsel appearing on behalf of the fifth respondent college submitted that the impugned order has been passed without properly appreciating the facts of the present case. Learned counsel submitted that totally seven candidates applied for the post of Principal in the fifth respondent college. On screening, the fifth respondent college found that five candidates were not even eligible to apply for the said post. Learned counsel submitted that three candidates were found to be not eligible as per U.G.C. norms and one candidate was found not eligible considering the course undergone by the candidate and one other candidate was found not eligible since

she was aged about 58 years. Learned counsel submitted that only two candidates were found eligible and they were short listed and were made to attend the interview conducted by the selection committee. Learned counsel, therefore, submitted that there was no requirement to go into the community and caste of the five candidates who were not even found to be eligible to be considered for the post of Principal. Learned counsel supported the submissions made by the learned counsel for the petitioner and concluded her arguments by submitting that the impugned order passed by the respondents is liable to be quashed and consequently, direction will have to be issued to the respondents.

8. This Court has carefully considered the submissions made on either side and perused the entire materials available on record.

9. There is no major controversy with regard to the facts of the present case and therefore, this Court does not wish to again reiterate the same facts. The only issue that requires consideration is whether the respondents were right in returning back the file on the ground that the selection committee did not have a member belonging to SC/ST community. In order to appreciate and decide this issue, it will be relevant to take note of the U.G.C. Regulations in this regard and the same is extracted hereunder:

"5.1.6 College Principal

(a) The Selection Committee for the post of College Principal shall have the following composition:

1. Chairperson of the Governing Body as Chairperson.

2. Two members of the Governing Body of the college to be nominated by the Chairperson of whom one shall be an expert in academic administration.

3. One nominee of the Vice Chancellor who shall be a Higher Education expert. In case of Colleges notified/declared as minority educational institutions, one nominee of the Chairperson of the College from out of a panel of five names, preferably from minority communities, recommended by the Vice-Chancellor of the affiliating University of whom one should be a subject expert.

4. Three experts consisting of the Principal of a college, a Professor and an accomplished educationist not below the rank of a Professor (to be nominated by the Governing Body of the College) out of a panel of six experts approved by the relevant statutory body of the university concerned.

5. An academician representing SC / ST / OBC / Minority / Women/ Differently-abled person, if any of the candidate belongs to this categories is the applicant to be nominated by the Vice Chancellor, if any of the above members of the selection committee do not belong to that category.

(b) At least five members, including two experts, should constitute the quorum.

(c) All the selection procedures of the selection committee shall be completed on the day of the selection committee meeting itself, wherein, minutes are recorded along with the scoring proforma and recommendation made on the basis of merit with the list of selected and waitlisted candidates/Panel of names in order of merit, duly signed by all members of the selection committee.

(d) The term of appointment of the college principal shall be FIVE years with eligibility for reappointment for one more term only after a similar selection committee process."

10. A plain reading of the above regulation clearly point out to the manner in which the selection committee must be constituted. Clause 5.1.6 (a) (5) mandates that there must be a member representing SC/ST/OBC/Minority/Women/Differently-abled person, if any of the candidate belonging to these categories participate in the interview. In the absence of the same, there is no need to fulfill this requirement.

11. In the present case, the fifth respondent college received seven applications and out of the seven, five candidates were found not eligible even to participate in the selection to the post of Principal. Therefore, the candidature of these five candidates was rejected even at the threshold. The fifth respondent college found that only two candidates were qualified and only they have to be considered for the above said post.

12. After determining the qualification of the candidates, the fifth respondent college had requested the concerned University to nominate the committee members and accordingly a selection committee consisting of seven members was constituted. On 30.05.2018 the committee interviewed the petitioner and another person. The selection committee found that the petitioner is more meritorious and therefore his name was recommended for appointment to the post of Principal.

13. The petitioner was appointed as the Principal and the fifth respondent college has forwarded the papers seeking for approval of the appointment of the petitioner. Several queries

were raised and the same was also answered by the fifth respondent college. Ultimately, the file has been returned on the ground that the selection committee did not consist of a member belonging to SC/ST community.

14. As rightly contended by the learned counsel for the petitioner, this requirement will not arise in this case because the two members who participated in the interview did not belong to SC/ST community. Learned counsel submitted that the U.G.C. Regulations, in this regard, is very clear. This Court finds lot of force in the said submission made by the learned counsel for the petitioner.

15. This Court also finds force in the submissions made by the learned counsel for the fifth respondent. As rightly pointed out by the learned counsel, there was no requirement for providing the community details of the five candidates since they were found ineligible even to be considered for appointment to the post of Principal and therefore their candidature was rejected at the threshold stage itself. That being so, there was no requirement to really mention about the caste and community to which these five candidates belong to.

16. The third and fourth respondents failed to assess the factual situation before returning back the file on a ground which will not apply the facts of the present case. The contention of the learned counsel for the official respondents is that the caste and community of the five candidates was not mentioned and in the considered view of this Court, it is not even relevant in the present case since they were not ultimately called for interview and they were rejected at the threshold stage itself. If they had been called for the interview, then their caste and community would have some relevance and consequently, the constitution of the committee can be gone into in line with the U.G.C. Regulation. That occasion never arose in the facts of the present case. It is made clear that this Court has given a finding that the selection committee need not have a member belonging to SC/ST community in the peculiar facts of the present case in view of the fact that the persons who attended the interview did not belong to these communities. Therefore, the decision rendered in the present case will have to confine itself only to the facts of the present case.

17. In view of the above discussion, the impugned proceedings of the third respondent, dated 25.10.2019 and the consequent order passed by the fourth respondent, dated 19.12.2019, is hereby quashed. There shall be a direction to the third respondent to grant approval to the appointment of the petitioner as the Principal in the fifth respondent college with effect from 01.06.2018 with all consequential and attendant

benefits. The order shall be passed in this regard, within a period of four weeks, from the date of receipt of copy of this order.

18. The Writ Petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

bkn Sub Assistant Registrar

To

- 1.The Secretary,
Higher Education Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Collegiate Education,
E.V.K. Sampath Buildings,
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,
Finance (In-Charge),
Office of Directorate of Collegiate Education,
Chennai - 600 006.
- 4.The Regional Joint Director of Collegiate Education,
Gandhi Nagar, Tirunelveli - 627 008.
- 5.The Secretary Aditanar College of Arts and Science,
Virapandiyanpatnam - 628 216,
Tiruchendur, Thoothukudi District.

+1cc to Mr.P.Ebenezar Paul, Advocate, SR.No.4491.
+1cc to Mr.R.Gouri, Advocate, SR.No.4552.
+1cc to Government Pleader, SR.No.4750.

W.P. No. 303 of 2020
and
W.M.P. No. 348 of 2020

VGII(CO)
CSR: 03.03.2020