

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.03.2020

Delivered on : 02.06.2020

CORAM:

THE HON'BLE MR.JUSTICE **V.PARTHIBAN**

W.P.1581 of 2020 and

W.M.P.No.1849 of 2020

Dr.A.K.Sheik Manzoor

... Petitioner

Vs.

1.State of Tamilnadu,
Rep.by Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai-600 009

2.The Registrar,
Anna University,
Guindy, Chennai-600 025

3.Director,
Centre for Research,
Anna University,
Chennai-600 025

4.Dr.K.P.Jaya,
Director,
Centre For Research,
Anna University,
Chennai-600 025

WEB COPY

5.K.Poongodi,
Research Scholar,
C/o Centre for Research,
Anna University,
Chennai-600 025

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to proceedings No.CFR/Ph.D.Sup-WD1/2019, dated 26.12.2019, issued by the third respondent and quash the same and for a consequential direction to the respondents 2 and 3 to restore the Supervisor recognition of the petitioner (Supervisor recognition No.2780002).

For Petitioner : Mr.L.Parvin Banu

For Respondents : Mr.S.Kathigai Balan,
Govt.Advocate for R1
Mr.P.H.Arvind Pandian,A.A.G.
Assisted by
Mr.L.P.Shanmuga Sundaram
For R2 to R5

ORDER

The petitioner has filed the present writ petition with the following prayer:

"to issue a writ of certiorarified mandamus calling for the records relating to proceedings No.CFR/Ph.D.Sup-WD1/2019, dated 26.12.2019, issued by the third respondent and quash the same and consequentially direct the respondents 2 and 3 to restore the Supervisor recognition of the petitioner (Supervisor recognition

No.2780002)."

2.The facts and circumstances, which gave rise to the filing of the writ petition, are briefly stated hereunder.

(a)The petitioner herein was appointed as a Lecturer in the second respondent University in 2003. He was promoted as Assistance Professor in 2013 under Career Advancement Scheme. He completed his Ph.D in 2013. Thereafter, he was promoted as Associate Professor with effect from 26.09.2016.

(b)The petitioner, being a Doctorate, became eligible to be assigned as a guide to the research scholars, who are doing Ph.D programs. According to the petitioner, at the relevant point of time there were five research scholars under his guidance. One Ms.P.Theerthana, faculty of Management Sciences, was one of the research scholars being guided by the petitioner. The said Ms.P.Theerthana had submitted a thesis in the research paper and as per the practice, the paper was sent to the external examiner for evaluation. After receipt of the evaluation report from the external examiner, further formalities were completed and she was directed to

submit herself to oral examination on 21.10.2019.

(c)While matters stood thus, the petitioner was called for a meeting on 29.11.2019. The petitioner attended the same. According to the petitioner, he was called by an Enquiry Committee on the basis of certain complaints given against him, for violating the Ph.D Regulations, 2015, as he has contacted the external examiner many times, after submitting the synopsis and thesis of Ms.P.Theerthana. The petitioner was also alleged to have prepared the evaluation report with the support of his scholar and sent it back to the examiner.

(d)In the Committee meeting, which held on 29.11.2019, an enquiry was conducted and on the basis of the reply from the petitioner, a decision was taken by the second respondent as conveyed in its letter dated 26.12.2019. According to the said decision, the petitioner has violated the Ph.D Regulations, 2015 by making contact with External Examiner and therefore, Supervisory recognition granted to him is withdrawn for a period of three years and consequently, he was debarred from guiding the scholars for any research programme in the University. The said letter is impugned in the present Writ Petition.

3.Mr.L.Parvin Banu, the learned counsel appearing for the petitioner strenuously and elaborately contended that the 5th respondent, who was also one of the research scholars under the petitioner, was inimical to the petitioner and she had hacked the email of the petitioner and on the basis of some materials stolen from the email of the petitioner, she had made a false complaint to the University and on the basis of the false complaint, an enquiry was conducted.

4.According to the learned counsel, the 4th and 5th respondents jointly had hatched a conspiracy to malign the petitioner, particularly when the petitioner was about to get promotion to the post of Professor.

5.The learned counsel for the petitioner would also strongly plead that there was no proper enquiry at all by the Committee, no charge-sheet was issued and in the absence of charge sheet and proper enquiry, the impugned order of the University is illegal and arbitrary. The learned counsel would also submit that the principles of natural justice have been violated and withdrawal of Supervisory recognition amounted to penalty. Therefore, any adverse action should

be preceded by due process of law, in terms of the University Regulations.

6.On behalf of the University Mr.P.H.Arvind Pandian, learned Additional Advocate General, assisted by Mr.L.P.Shanmuga Sundaram, entered appearance and a detailed counter affidavit has also been filed.

7.Mr.Aravind Pandian, the learned Additional Advocate General appearing for the University would, on the other hand, submit that the submission of the learned counsel for the petitioner that no opportunity was given to the petitioner before the impugned communication was sent, is contrary to the fact and the same is liable to be rejected for the following reasons.

8.The learned Additional Advocate General would submit that on the basis of the complaint received, the Vice Chancellor of the University constituted an Enquiry Committee, comprising eminent persons, viz., (i) Dr.K.S.Eeshwarakumar, Professor of Computer Science and Engineering (ii) Dr.G.Nagarajan, Professor of Mechanical Engineering, Anna University, (iii) Dr.L.Suganthi, Professor of

Management Studies, Anna University and (iv) Dr.K.P.Jaya, Director of Research, Anna University. The Committee met on 29.11.2019, wherein the petitioner was directed to appear and after conducting thorough enquiry, the minutes of the meeting were drawn and thereafter, the impugned action was taken.

9.The learned Additional Advocate General would submit that the question of not affording proper opportunity to the petitioner did not arise in this case for the simple reason that the petitioner himself has submitted a written explanation on 29.11.2019 before the Committee, wherein he accepted the fact of contacting the External/foreign examiner and also preparing the Evaluation Report with the support of his scholar. In the written explanation, in the concluding paragraph, he regretted for his action and pleaded that the same would not be repeated. In the light of his own hand written letter, it is not open to the petitioner to assail the action taken by the University withdrawing Supervisory recognition for a period of three years. According to the learned Additional Advocate General, the withdrawal of recognition did not amount to imposing any penalty and it is only for a temporary period of three years, since admittedly the petitioner has violated Ph.D Regulations, 2015. Infact, the learned Additional Advocate General

would also draw the attention of this Court to certain email communications emanated from the petitioner to the External/foreign Examiner in respect of the subject matter of enquiry by the Committee, constituted by the Vice Chancellor of University. Once the petitioner himself has voluntarily and consciously accepted his contact with the external examiner, he cannot retract from his own admission, particularly being a senior faculty member of the university. Therefore, the learned Additional Advocate General would submit that the grounds of attack in the writ petition have no legs to stand on and the writ petition is liable to be rejected.

10.By way of a reply, the learned counsel for the petitioner tried to submit that the petitioner was being victimized, as he was about to get recognition of being a professor, having guided many scholars without any blemish in the past.

11.Reply statements have been filed in addition to what is already stated in the affidavit already filed. Several grounds have also been brought on record in order to impress upon this Court as to how the petitioner was being victimized.

12.Heard the learned counsel for the petitioner and also the learned Additional Advocate General for the University and perused all the relevant materials placed on record.

13.Though a number of documents and additional documents have been brought on record and also reply statements on behalf of the petitioner and elaborate submissions have been made by the counsel for the petitioner, yet the issue that falls for consideration before this Court is simple and narrow.

14.The fact of the matter is that the petitioner has indeed contacted the External/Foreign examiner in regard to the synopsis and thesis submitted by his Scholar one Ms.P.Theertana and thereby violated Ph.D Regulations, 2015. May be the contact with the external examiner was intentional or otherwise in order to gain unfair advantage for his scholar, nevertheless, such contact, once it is prohibited in the Regulations, cannot be otherwise construed except to conclude that the petitioner has violated the Regulations and therefore, liable for a consequential action by the University.

15.The learned counsel for the petitioner though pleaded

elaborately that the principles of natural justice have been given a go-bye and no proper enquiry was conducted, the same have no merit at all in the face of the admission of the petitioner himself about his contact with the external examiner in regard to the evaluation of synopsis and thesis submitted by his own Scholar. The hand written explanation submitted by the petitioner on 29.11.2019 to the Committee is very clear and self-explanatory and no amount of retraction can absolve the petitioner of his conduct. Therefore, the committee, which was manned with eminent professors, on the basis of an Enquiry conducted with the petitioner, has concluded rightly that the petitioner had acted against the prohibition imposed by the Regulations.

16.The Committee also appears to have taken into consideration the emails of the petitioner addressed to the External Foreign Examiner and after studying the contents of the mail, the Committee has categorically concluded that the petitioner has in fact conducted himself against the Ph.D Norms and Regulations while guiding his scholars. Further, in regard to the submission made on behalf of the petitioner that the impugned action by the University amounted to penalty and therefore, it shall be preceded by a proper enquiry as in

the case of service matter, is concerned, this Court is unable to appreciate such submission, inasmuch as the grant of Supervisory recognition is a special privilege given to a faculty member, who attained some status of erudition. If such special privilege or status is abused or misused and such special privilege is governed by certain Regulations and the same are violated, such privilege can always be withdrawn. In this case there is a clear violation of Regulation, for that, the privilege was not withdrawn automatically, but the University has appointed a Committee of eminent persons and after an enquiry and after perusing the supporting materials, in support of the complaint against the petitioner and also on the basis of written explanation of the petitioner, the Committee has concluded and minuted. On the basis of the minutes of the committee, the University has passed the impugned order.

17. When the Committee has enquired into the conduct of the petitioner, the petitioner was called for an enquiry and sufficient opportunity was afforded to him and therefore, no further opportunity need be given to the petitioner for withdrawing the special privilege granted. In any event, the withdrawal of privilege is only for a temporary period of three years, for which, the University is not under

any obligation under any Regulation or law to go through a lengthy procedural process of issuing charge memo and conduct enquiry as in the case of disciplinary action in service matters. The Committee, which enquired into the matter, is comprised of independent eminent persons and their conclusion cannot said to be tainted or incorrect and the enquiry and opportunity given to the petitioner is fair enough for taking the impugned action against the petitioner.

18.The learned counsel for the petitioner filed several documents, which are, in the opinion of this Court, extraneous to the core issue that requires adjudication by this Court. On the whole, this Court is of the view that the present writ petition is completely devoid of merits and substance and liable to be rejected.

19.In the light of the above discussion, the Writ Petition stands dismissed. The Interim order already passed by this Court, pending disposal of the writ petition, shall stand vacated. W.M.P.No.1849 of 2020 shall stand dismissed. No costs.

Msk
Index:Yes/No
Internet:Yes

02.06.2020

To

1.State of Tamilnadu,
Rep.by Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai-600 009

2.The Registrar,
Anna University,
Guindy, Chennai-600 025

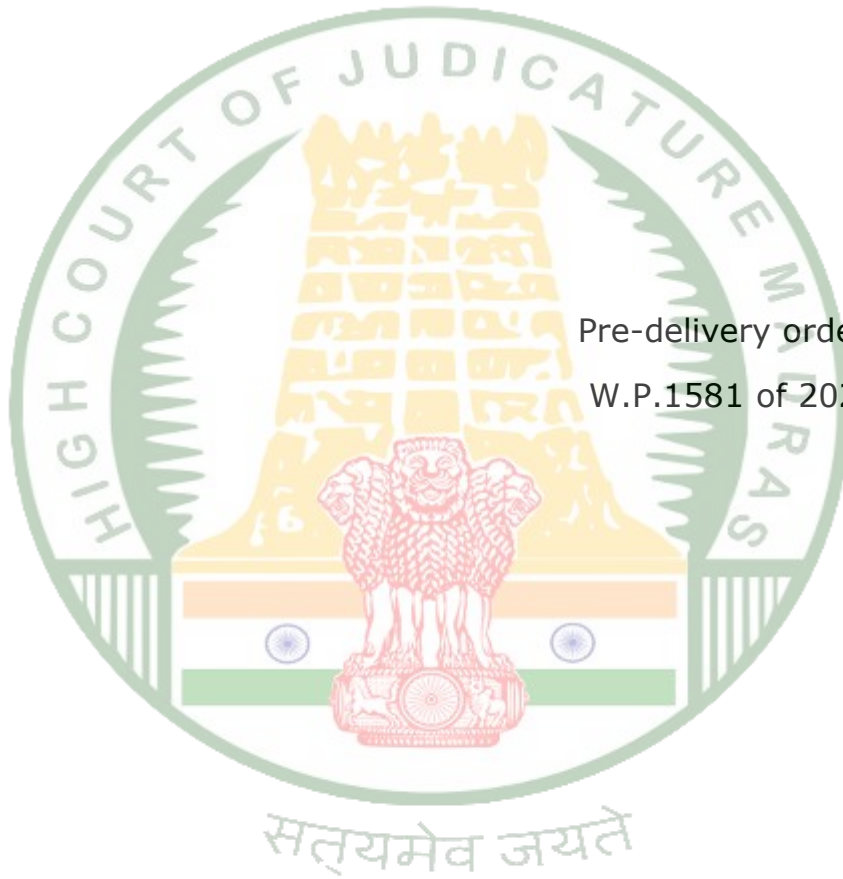
3.Director,
Centre for Research,
Anna University,
Chennai-600 025



WEB COPY

V.PARTHIBAN,J.

Msk/mrm



Pre-delivery order in
W.P.1581 of 2020

02.06.2020

WEB COPY