



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.12.2020

Delivered on : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD) .Nos.7189; 14776 and 15586 of 2020

and

W.M.P. (MD) .Nos.13084,13085; 13086 and 6620 to 6622 of 2020

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W.P(MD) .Nos.7189 and 15586 of 2020

M.S.Balamurugan,
General Secretary,
Association of University Teachers (Regd.),
No.A/67, 2nd Cross, Dheeran Nagar,
Trichy, Trichy District.

... Petitioner in W.P.(MD)No.7189 of 2020

Dr.S.Gandhi

... Petitioner in W.P.(MD)No.15586 of 2020

Vs.

1.The State of Tamil Nadu

Rep. By its Principal Secretary to Government,
Department of Higher Education, Chennai - 9.

2.The Vice Chancellor,

Bharadhidasan University, Trichy - 24.

3.The Registrar,

Bharadhidasan University,

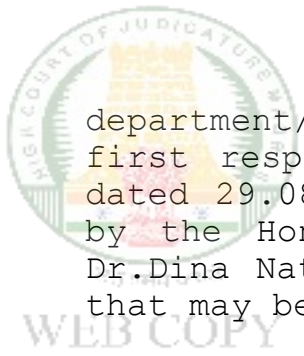
Trichy - 620 024. ... Respondents 1 to 3 in both cases

4.R.Portia

(R4 is impleaded vide Court order dated 12.10.2020 made in
WMP(MD)No.7499 of 2020 in W.P.(MD)No.7189 of 2020)

...Respondent No.4 in WP(MD)No.7189 of 2020

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Notification published by the third respondent in his Notification No.H2/13677/2019 in the leading Dailies (The Hindu, (all India) and Dinamani (Tamil Nadu) dated 08.07.2019 for direct recruitment to the posts of Professor, Associate Professor and Assistant-Professor by treating/considering the entire University as a single Unit and the consequential order passed by the first respondent in his proceedings in Letter No.17166/H2/2019-2, dated 28.05.2020 and quash the same as illegal and consequentially to direct the third respondent to issue fresh notification for direct recruitment in the second respondent University by considering/treating each



department/subject as a single unit in terms of Letter issued by the first respondent in his proceedings in Letter No.17867/K2/2018-2, dated 29.08.2019 and in the light of settled proposition laid down by the Hon'ble Supreme Court in the case of State of U.P. Vs. Dr.Dina Nath Shukla reported in AIR 1997 SC 1095 within the period that may be stipulated by this court.

W.P(MD) .No.14776 of 2020

Dr.R.Gopinath

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. By its Principal Secretary to Government,
Department of Higher Education, Chennai - 600 009.

2.The Vice Chancellor,

Bharadhidasan University, Trichy - 600 024.

3.The Registrar,

Bharadhidasan University, Trichy - 620 024.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to complete the interview pursuant to the paper publication in Notification No.H2/13677/2019, dated 08.07.2019 issued by the third respondent and complete the selection process as per law within a time frame fixed by this Court.

For Petitioner in

W.P. (MD) Nos.7189 and
15586/2020

: Mr.M.Ajmalkhan,
Senior Counsel
for
M/s.Ajmal Associates

For Petitioner in

W.P. (MD) Nos.14776/2020

: Mr.B.Prasanna Vinoth

For R-1 in

W.P. (MD) No.7189/2020

: Mr.M.Jeyakumar
Additional Government Pleader

For R-1 in

W.P. (MD) No.15586/2020

: Mr.R.Murugaraj,
Government Advocate

For R-1 in

W.P. (MD) No.14776/2020

: Mr.M.Karuppasamy
Government Advocate For R1

For R-2&R-3 in

all the W.Ps.

: Mr.V.R.Shanmuganathan

For R-4 in

<https://hcservices.ecourts.gov.in/hcservices/>



W.P. (MD) No.7189/2020

: Mr.ARL.Sundaresan
Senior Counsel
for
Mr.B.Saravanan

C O M M O N O R D E R

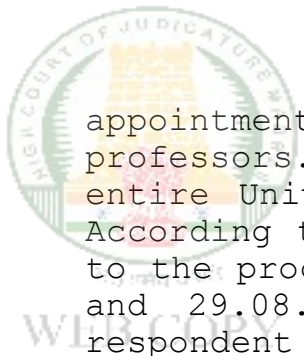
W.P. (MD) Nos.7189 and 15586 of 2020:

These writ petitions have been filed challenging the Notification published by the third respondent in his Notification No.H2/13677/2019 in the leading Dailies (The Hindu, (all India) and Dinamani (Tamil Nadu) dated 08.07.2019 for direct recruitment to the posts of Professor, Associate Professor and Assistant-Professor by treating/considering the entire University as a single Unit and the consequential order passed by the first respondent in his proceedings in Letter No.17166/H2/2019-2, dated 28.05.2020 and quash the same as illegal and consequentially to direct the third respondent to issue fresh notification for direct recruitment in the second respondent University by considering/treating each department/subject as a single unit in terms of Letter issued by the first respondent in his proceedings in Letter No.17867/K2/2018-2, dated 29.08.2020 and in the light of settled proposition laid down by the Hon'ble Supreme Court in the case of State of U.P. Vs. Dr.Dina Nath Shukla reported in AIR 1997 SC 1095 within a stipulated time.

2.The petitioner in W.P.(MD)No.7189 of 2020 is a General Secretary of an association of University Teachers, a Pioneer College Teachers Organization in Tamil Nadu since 1946. According to the petitioner, the same has been registered under the Societies Registration Act and presently the petitioner is working as Associate Professor in English, National College, Trichy and though the petitioner is entitled to file this writ petition in an individual capacity, he has filed this writ petition in the capacity of General Secretary of the association, representing the grievances of its members.

3.The petition in W.P.(MD)No.15586 of 2020 has been filed by the petitioner, who is working as Associate Professor in Tamil, National College, Trichy. He has filed the present writ petition since he has lost the opportunities to make an application consequent to the impugned notification dated 28.05.2020, wherein the posts of professors were allotted to MBC taking the entire University as one unit, whereas if the respondents consider the each department as one unit, the petitioner would have a chance for making an application for the post of professor in the cadre of Schedule caste. Therefore, aggrieved by the said notification, the petitioner has filed the present writ petition.

4.The case of the petitioners is that the third respondent issued a notification dated 28.05.2020 for the purpose of



appointment of professors, associate professors and assistant professors. The said notification was issued by considering the entire University as one unit without applying the roster system. According to the petitioners, the impugned notification is contrary to the proceedings issued by the first respondent, dated 19.04.2002 and 29.08.2019. In the above said two proceedings, the first respondent has sent a communication to all the Vice Chancellors and Registrars of the Universities under the Association of University Teachers of the Higher Education Department stating that roster system should be applied consider the department / subject as one unit. In contrary to the above said proceedings, the third respondent has issued the impugned notification considering the entire University as one unit.

5.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioners submitted that the impugned notification is contrary to the reservation policy of the Government and also contrary to the proceedings of the first respondent dated 19.04.2002 and 29.08.2019. The first respondent by virtue of the letter dated 28.05.2020 permitted the third respondent to proceed with the appointment of teaching posts in the Bharathidasan University in accordance with the UGC guidelines and for the purpose of reservation of the posts the University shall be taken as one unit. This letter of clarification issued by the first respondent is contrary to his own proceedings dated 19.04.2002 and 29.08.2019.

6.The learned Senior Counsel would further submit that on 08.03.2019, the University Grants Commission has issued a letter to all the Universities including the respondent University and clarified as follows:-

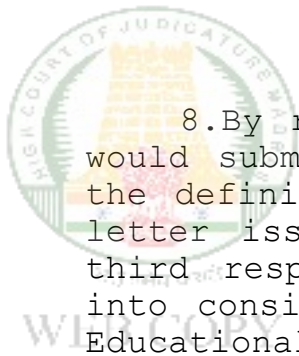
"In continuation of this office letter of even no. dated 7th March, 2019 on the subject mentioned above, it is clarified that for the purpose of reservation of posts in direct recruitment in Teachers' Cadre, the University / College / Institution shall be regarded as one unit."

The above letter was issued to all The Registrars, All Central Universities and All State Universities receiving Grant-in-Aid from Central Government, deemed to be universities receiving Grant-in-Aid from Central Government / UGC.

7.In the present case, Bharadhidasan University not at all received any grant from the Central Government and therefore that clarification issued by the first respondent will not apply for the third respondent University. Further, the learned senior counsel referred Section 3(2) of the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, which reads as under:-

"3.(1).....

(2).For the purpose of reservation of posts, a Central Educational Institution shall be regarded as one unit."



8.By referring the above said Act, the learned Senior Counsel would submit that Bharathidasan University not at all comes under the definition of the Central Educational Institutions. Hence, the letter issued by the UGC dated 08.03.2019 will not apply to the third respondent University. Therefore, he contended that taking into consideration of the letter dated 08.03.2019 and the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, the respondents have issued impugned notification dated 08.07.2019, which is totally contrary to the reservation policy of the State and the law laid down by the Hon'ble Apex Court in following the roster system and proceeding of the first respondent dated 19.04.2002 and 29.08.2019. Therefore, he submitted that the impugned notifications are liable to be set aside.

9.The learned Senior Counsel further submitted that the writ petition in W.P.(MD)No.7189 of 2020 has been filed by the petitioner, who is working as an associate professor, both in his personal capacity and in the representative capacity to represent the grievances of the association members. In this regard, he has referred the following Judgments of the Hon'ble Supreme Court:-

(i).In the case of **AKHIL BHARATHIYA SOSHIT KARAMCHARI SANGH (RAILWAY) v. UNION OF INDIA & OTHERS**, reported in **AIR 1981 SC, 298**; and

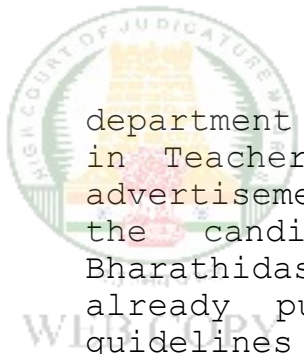
(ii).In **W.A.(MD)No.815 of 2018, dated 10.08.2018 (THE STATE TRANSPORT AND TRANSPORT CORPORATION RETIRED EMPLOYEES WELFARE ASSOCIATION v. THE GOVERNMENT OF TAMIL NADU)**.

10.The writ petition in W.P.(MD)No.15586 of 2020, has been filed by the petitioner, who is working as an Associate Professor in Tamil department in National College, Trichy. It is stated that he is eligible to become the professor as he belongs to Scheduled Caste and since the entire department considered as a single unit, the post was allotted to MBC. Therefore, the petitioner lost his opportunities even to make application for the post of professor in Tamil department. If the department is considered as one unit, this would have been allotted to the General Turn or to the Scheduled Caste, in such case, the petitioner in the present writ petition would have had a chance to make an application. Therefore, the learned Senior counsel would contend that these writ petitions may be allowed as prayed for.

11.The first respondent has filed a counter affidavit and submitted as follows:-

(i).The Government have given a direction to the Universities on 29.08.2019 stating that each department in the University may be taken as one unit for the purpose of reservation of posts in direct recruitment in Teacher's cadre and the Universities may start up recruitment in teacher's cadre.

(ii).It is further stated that the Vice Chancellor has requested the Government that the communal roster system taking each



department in the University as one unit for the direct recruitment in Teacher's cadre will lead to create legal issues since the advertisement has already been issued and applications received from the candidates and hence to kindly consider and support Bharathidasan University to proceed with the appointment with the already published advertisement according to the earlier UGC guidelines viz., communal roster system taking all departments as one unit. He has pointed out that while filling up the vacant positions after this recruitment, wherever required the non-filled up communal roster will be taken up for appointment and Bharathithadasan University will follow and adhere that each department in the University may be taken as one unit for the purpose of reservation of communal roster system. Therefore, he requested the Government to kindly permit to proceed with the appointment with the already published advertisement.

(iii).It is also stated in the counter of the first respondent that subsequently, the Registrar, Bharathithasan University was informed on 28.05.2020 that Bharathithasan University may proceed with the appointment of teaching posts in accordance with the UGC guidelines and for the purpose of reservation of the posts the University shall be taken as one unit. The second respondent University is getting aid from UGC, hence, the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, is applicable to the second respondent University.

(iv).It is further stated that the petitioner cannot rely on the communication issued by the Government, unless the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, has no application on the second respondent University, but admittedly, the second respondent University is getting grant from the UGC and hence, the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, is applicable to the second respondent University. Therefore, when a statute was made on a specific issue, the communication issued by the Government has no legal tenability on the same issue.

(v).It is also stated that the impugned notification dated 08.07.2019 was issued in consonance with the Central Educational Institutions (Reservation in Teachers Cadre) Ordinance, 2019, and the UGC guidelines dated 08.03.2019 and the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, was also enacted and came into force from 07.03.2019, subsequently the UGC guidelines were also approved by the Syndicate Meeting of the second respondent University, dated 13.11.2019, but without challenging the applicability of the Central Educational Institutions (Reservation in Teachers Cadre) Ordinance, 2019, and the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, and the UGC guidelines and the Syndicate Meeting Resolution, the petitioner challenged the consequent notification dated 08.07.2019 and the communication issued by the first respondent dated 28.05.2020 is not



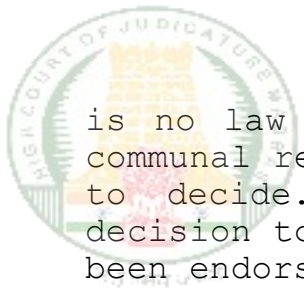
maintainable.

12.Per contra, Mr.V.R.Shanmuganathan, learned standing counsel appearing for the respondents 2 and 3 submitted that the Government of India, issued guidelines under the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019 and as per Section 3(2) of the said Act, a Central Educational Institution shall be regarded as one unit for the purpose of reservation of posts. On 08.03.2019 the UGC has also issued letters to all the Universities including the respondent University and clarified that University must treat the University as one unit for the purpose of reservation. Subsequently, the third respondent University appointed a Committee to finalise the recruitment norms and to give report prescribing various norms for recruitment including one to treat University as one unit based on UGC letter dated 08.03.2019 and taking note of the fact there was no clarification as on that date.

13.Under these circumstances, notification for recruitment was issued on 08.07.2019 treating the University as one unit. A clarification letter of the first respondent dated 29.08.2019 came after the clarification was issued on 08.07.2019. Therefore, the matter was placed before the syndicate of the University and syndicate took a conscious decision to have University as one unit and to proceed with the recruitment vide resolution No.159, dated 15.11.2019. The third respondent has also sought for clarification from the Government / first respondent and by letter dated 28.05.2020, the first respondent sent a communication to go ahead with the notification for recruitment of Professors, Associate Professors and Assistant Professors dated 08.07.2019 by treating the University as one unit. Therefore, according to him there is no illegalities in issuing the impugned notification in accordance with the UGC guidelines, clarification issued by UGC and further clarification issued by the first respondent and on the basis of the resolution No.159, dated 15.11.2019, they have issued the notification.

14.The petitioner has not challenged the proceedings dated 08.03.2019 of the UGC, syndicate resolution dated 15.11.2019, as the impugned notification was issued and proceeded based on those proceedings. Therefore, challenging the consequential proceedings without challenging the basic proceedings will not stand to the scrutiny of law. The reservation and the manner of its execution is the policy decision of the University and the same cannot be questioned. The respondent University is a creature of a statute viz., Bharathidasan University Act, 1981 and it has its own powers to decide the mode of appointment etc., as Section 25 of the Act empowers syndicate to frame statutes.

15.There is no dispute on communal reservation as the University had strictly followed 69% of communal reservation and 200 points reserved as prescribed by the State of Tamilnadu. Further, there



is no law in Tamilnadu, regarding the manner of implementation of communal reservation. Therefore, it is for the concerned institution to decide. Thus, the third respondent University has taken a decision to take University as one unit. Thus, the said decision has been endorsed by the State Government also.

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16.The learned standing counsel appearing for the respondents 2 and 3 submitted that the petitioners had referred two case laws with regard to the **STATE OF UTTAR PRADESH v. DINA NATH SHUKLA** reported in **AIR 1997 SC 1095** and **STATE OF U.P. v. M.C.CHATTOPADHYAYA** reported in **2004 (12) SCC 333**. These Judgments cannot be applied to the case on hand at this point of time, as much water has flown thereafter and they also differ on facts. Further he submitted that in the decision of **DINA NATH SHUKLA**, it has held to be no longer a good law in the Judgment in **M.C.CHATTOPADHYAYA**. Though the notification is dated 08.07.2019, the syndicate in its resolution dated 13.11.2019 has approved the same. Therefore, he contended that the approval relates back to the date of original notification. The learned counsel also stressed a point that the syndicate resolution to treat University as one unit was signed by one Mr.Dr.J.Sockalingam, representative of the association of teachers. Therefore, the petitioner who comes on behalf of the same association cannot be pleaded otherwise. Finally, the learned counsel submitted that on the one hand, when the University is taken as a unit there is a possibility that some departments would only have reserved candidates and others would have only unreserved candidates. On the other hand, when a department is taken as a unit, there is a decrease in the total number of reserved posts within the University. Therefore, if the department is taken as a unit it defeats the object of reservation itself. Therefore, he submitted that the writ petitions are misconceived and are liable to be dismissed.

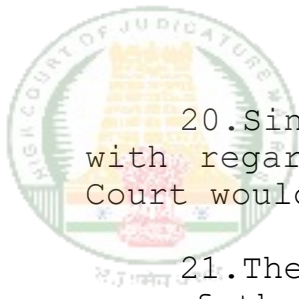
17.Mr.ARL.Sundaresan, learned senior counsel appearing for the impleading fourth respondent would contend that the petitioners have no *locus standi* to file the present writ petitions. One writ petition in W.P.(MD)No.7189 of 2020 was filed by the General Secretary of the association. The association cannot file a writ petition and it is not a Public Interest Litigation and if at all if the petitioner is aggrieved, then only he can file the writ petition. Therefore, he submitted that the said writ petition is liable to be dismissed on the ground that it is not maintainable before this Court by the petitioner in the capacity of a General Secretary of an association. As far as the writ petition in W.P.(MD) No.15586 of 2020 is concerned, the learned Senior Counsel would submit that the said petition also is not maintainable, as the petitioner has approached this Court belatedly. The notification was issued on 08.07.2019, whereas the petitioner has filed the present writ petition belatedly. Further, the petitioner has also not made any application for any of the posts of professors and therefore, he



lost his opportunity to make his application and hence, the writ petition is liable to be dismissed on the ground of delay and laches.

18. On merits, the learned Senior Counsel Mr. ARL. Sundaresan would submit that in the present case, the impugned notification was issued on 08.07.2019 in consonance with the UGC guidelines and the letter issued by the UGC dated 08.03.2019 and the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019. The learned Senior Counsel further submitted that the University is a separate body and constituted under a separate Act. Therefore, the syndicate can frame its own Rules with regard to the appointment and selection and accordingly, after taking into consideration of the Central Act with regard to the reservation and also the clarification issued by UGC dated 08.03.2019, effected paper publication for the recruitment of Professors, Associate Professors and Assistant Professors considering the department as one unit. In the present case, no resolution was passed to issue notification considering the University as one unit at the time of issuing the impugned notification, whereas it was subsequently ratified by resolution dated 13.11.2019. The first respondent issued the proceedings dated 29.08.2019 whereby treating each department in the University as one unit and this letter was issued subsequent to the first notification issued by the third respondent. Therefore, a clarification was sought for from the first respondent and the first respondent vide letter dated 28.05.2020 addressed to the third respondent has permitted to proceed with the appointment of teaching posts in the Bharathidasan University in accordance with the UGC guidelines and for the purpose of reservation of the posts, the University shall be taken as one unit. Therefore, he contended that there are no illegalities in issuing the impugned notification for the recruitment and that the respondents have duly followed the UGC guidelines under Central Act and they have also followed the same procedure by considering the entire University as one unit without deviating the State Policy of roster system. Therefore, the petitioners are noway going to be affected by virtue of the impugned notification, since the respondents have duly followed the roster system by providing the reservation to all the categories. The learned Senior Counsel would also submit that though the notification was issued on 08.07.2019, due to the interim order granted by this Court, the entire recruitment process has been stalled and therefore, he submitted that appropriate orders may be passed.

19. Heard Mr. M. Ajmal Khan, learned Senior Counsel appearing for the petitioners; Mr. M. Karuppasamy, learned Government Advocate appearing for the first respondent; Mr. V. R. Shanmuganathan, learned standing counsel appearing for the respondents 2 and 3; Mr. ARL. Sundaresan, learned Senior Counsel appearing for the impleaded fourth respondent and perused the materials available on record.



20.Since the respondents have taken a preliminary objection with regard to the maintainability of these writ petitions, this Court would like to deal with the preliminary issue first.

21.The writ petition in W.P.(MD)No.7189 of 2020 was filed by one of the associate professors, who is working in Tamil Department in National College, which comes under the purview of the third respondent University. He has stated that he has filed present writ petition in his personal capacity as associate professor and also as the General Secretary of Association of University Teachers (Regd) representing its members.

22.Now, the issue is whether the writ petition can be filed by an association in order to protect the interest of its members instead of filing separate writ petition, by way of one single representative.

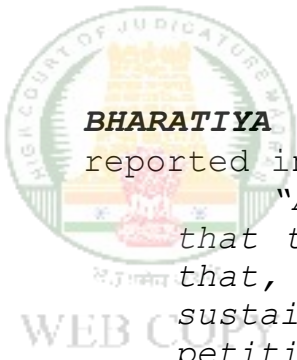
23.The Courts have repeatedly held in catena of Judgments in service matters that unless otherwise if the petitioner's rights are not affected directly, if the writ petition is filed in the nature of public interest, the same is not maintainable.

24.Taking into consideration of the above, this Court proceeded to deal with the matter to find out (a).whether this writ petition has been filed for public interest or (b).whether the representative action taken through this writ petition for a particular set of people involves any public interest.

25.It appears that the writ petitioner in W.P.(MD)No.7189 of 2020 is General Secretary of an association of employees of the Bharathidasan University. Thus the action of the petitioner herein is for the welfare of its members of the association of Employees.

26.After all, the petitioner is representing the cause of its own members, there, I do not see any public interest and the benefit is extended only to the extent of a particular set of people viz., the members of association alone. Thus, the matter should be looked into the aspect of the interest of the members of the Society, which cannot be considered as a Public Interest. As far as this case is concerned, for the interest of its own members, the writ petitioner, in the capacity as General Secretary of Association, has filed the present writ petition to protect the interest of the members. Thus, the representative action on behalf of its own members' by the petitioner, cannot be termed as Public Interest Litigation. Hence, I have no hesitation to hold that the representative action is permissible to protect the interest of its members, in service matters.

27.At this juncture, this Court would like to press into the service of the Judgement of the Hon'ble Apex Court in **AKHIL**



BHARATIYA SOSHIT KARAMCHARI SANGH (RAILWAY) v. UNION OF INDIA, reported in **AIR 1981 SC 298**, wherein it was held as follows:-

"A technical point is taken in the counter affidavit that the 1st petitioner is an unrecognised association and that, therefore, the petitioner to that extent, is not sustainable. It has to be overruled. Whether the petitioners belong to a recognised union or not, the fact remains that a large body of persons with a common grievance exists and they have approached this Court under Art. 32. Our current processual jurisprudence is not of individualistic Anglo- Indian mould. It is broad-based and people-oriented, and envisions access to justice through 'class actions', 'public interest litigation', and 'representative proceedings'. Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of 'cause of action' and 'person aggrieved' and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney General has taken no objection to a non-recognised association maintaining the writ petitions."

28. This Court also press into the service of the Judgment in **W.A. (MD) No. 815 of 2018, dated 10.08.2018 (THE STATE TRANSPORT AND TRANSPORT CORPORATION RETIRED EMPLOYEES WELFARE ASSOCIATION v. THE GOVERNMENT OF TAMIL NADU)**, wherein at paragraph No.5, it has been observed as follows:-

"5. A perusal of the order of the learned Single Judge would show that it was passed only on the premise that writ petition is not maintainable. With due respect, it is not a correct expression of statement of law. An association is a combination of members. The object of the association is to canvass and ventilate the grievance of the members. The appellant concerned is only qua employees of the respondents. The object is also to take care of the interest of the employees, who are members of the appellant. The decisions referred to by the learned counsel appearing for the appellant including that of the Hon'ble Apex Court would also clearly show that the association can certainly take up the grievance of its members. The grievance of the appellant is that there is a partial implementation of the order passed by the Court to the employees. Though they are placed similarly it was applied to only to those filed the writ petition or writ appeals, notwithstanding the general direction issued. Therefore, looking from any perspective, this writ



petition is maintainable."

29. In view of the settled law, this Court is of the opinion that there is no merits in the preliminary objections raised by the respondent with regard to the maintainability of the writ petition in W.P.(MD) No.7189 of 2020 and accordingly, I reject the preliminary objections.

30. As far as the preliminary objections raised in W.P.(MD) No.15586 of 2020 is concerned, on the ground of delay and latches, this Court is of the view that the petitioner in the said writ petition is working as Associate Professor and he is eligible to be appointed as a Professor, if the impugned notification was issued considering the department as one unit. In the present case, the petitioner belongs to Scheduled Caste, whereas the posts reserved as per the notification is for MBC. Therefore, certainly the petitioner lost his opportunities even for making the application. Thus, the contention of the respondents that the petitioner not even made application is not sustainable on the preliminary objections when the petitioner belongs to Scheduled Caste and the post is called for, under MBC quota. Further, the notification was stayed by this Court and the selection process not yet complete. Hence, there is no bar for the petitioner to file the present writ petition before completion of the selection.

31. Thus, I am not able to trace out any materials for delay and latches as contended by the respondents in the preliminary objections. Accordingly, the preliminary objections raised by the respondents are overruled.

32. Coming to the point on merits, the recruitment notification was issued on 08.07.2019 by the third respondent considering the entire University as one unit and applied 200 point roster system in communal reservation.

33. Now, the issue to be decided in the present writ petition is that to fill up the vacancies in the third respondent University for the posts of Professors, Associate Professors and Assistant Professors, whether the entire University can be taken as single unit or each department/subject as a single unit.

34. According to the third respondent University, they have applied the 200 point roster system in issuing the notification considering the University as single unit. In support of the contention, the third respondent University referred the letter sent by the UGC dated 08.03.2019 and Section 3(2) of the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019.

35. It is relevant to extract the content of the UGC letter dated 08.03.2019, which reads as under:-

<https://hcservices.ecourts.gov.in/hcservices/>



"In continuation of this office letter of even no. dated 7th March, 2019 on the subject mentioned above, it is clarified that for the purpose of reservation of posts in direct recruitment in Teachers' Cadre, the University / College / Institution shall be regarded as one unit."

The above said letter was communicated to,

- (i).The Registrars
- (ii).All Central Universities
- (iii).All State Universities receiving Grant-in-Aid from Central Government / UGC
- (iv).Deemed to be Universities receiving Grant-in-Aid from Central Government / UGC.

36.At this juncture, it would be appropriate to refer Section 2 (c) and Section 3(2) of Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, which read as follows:-

"2(a).....

(b).....

(c)."Central Educational Institution" means-

(i).a University established or incorporated by or under a Central Act;

(ii).an institution of national importance established by an Act of Parliament;

(iii).an institution, declared as an institution deemed to be University under Section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government;

(iv).an institution maintained by or receiving aid from the Central Government, whether directly or indirectly and affiliated to an institution referred to in sub-clause (i) or sub-clause (ii), or a constituent unit of an institution referred to in sub-clause (iii); and

(v).an educational inspection established by the Central Government under the Societies Registration Act, 1860.

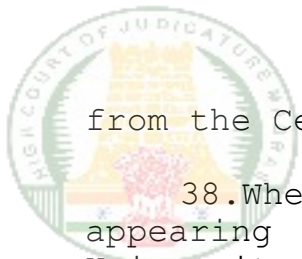
.....

"3.(1).....

(2).For the purpose of reservation of posts, a Central Educational Institution shall be regarded as one unit."

On perusal of the above definition of meaning of "Central University" would show, the third respondent University does not fall any of the Category mentioned in Section 2 and 3 of the Central Act.

37.Though the third respondent / University does not fall under the Central University, this letter was received from the third respondent as it is a State University receiving Grant-in-Aid



from the Central Government.

38. When a question was put forth to the learned counsel appearing for the University, whether the third respondent University is a Central University or State University receiving Grant-in-Aid from the Central Government / UGC, he fairly submitted that it is neither Central University nor State University receiving Grant-in-Aid from the Central Government / UGC. Further it is an admitted position that the third respondent University is not State University receiving Grant-in-Aid from the Central Government / UGC.

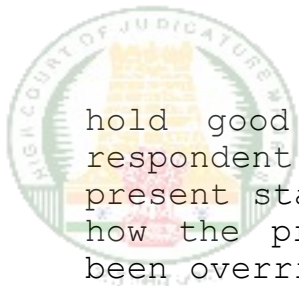
39. Further, upon perusal of the counter affidavit filed by the second and third respondents, the minutes of the screening cum evaluation committee dated 31.10.2019 and the resolution of the syndicate meeting, dated 13.11.2019, nowhere it has been mentioned that the second and third respondents University has been receiving grant-in-aid either from the Central Government or from the UGC.

40. It is an admitted position that the University comes under aegis of the Higher Education Department of the State of Tamil Nadu. In such being the position, the second and third respondents shall follow the guidelines / clarification issued by the first respondent.

41. In the present case, the first respondent has issued a very detailed clarification taking into account of law settled down by the Hon'ble Apex Court and deliberating the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, in detail and issued a clarification to all the 13 Universities which are come under the aegis of Higher Education Department of the State, stating that the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, will not apply.

42. As stated above, nowhere in the counter of the second and third respondent, the report of the evaluation committee, resolution of the syndicate, further correspondence with the first respondent and the submission of the learned counsel for the second and third respondents ever stated that the petitioner has been issuing grant-in-aid either from the Central Government or from the UGC.

43. When such a stand was taken by the Bharathithasan University, it is quiet surprising for this Court subsequent to the filing of the present writ petition, the first respondent has assumed itself as if the Bharathithasan University is receiving grant-in-aid from UGC and therefore, the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, will apply. Such an interpretation at a belated stage is unwarranted when the same respondent has clarified in a detailed manner vide proceedings dated 29.08.2019. As long as the first respondent proceedings dated 29.08.2019 is not challenged under any Court of law, the same is



hold good even today. Even in the communication of the first respondent 28.05.2020, nowhere it has been narrated about the present stand of the first respondent by virtue of clarification and how the proceedings of the same respondent, dated 29.08.2019 has been override.

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44.This Court is unable to find any justifiable reason on the part of the first respondent to take a stand that the Bharathithasan University is receiving grant-in-aid from UGC when the University has not at all taken any such stand before this Court as well as in the other proceedings of the University. The present stand taken by the first respondent is nothing but to an escape route and thereby to escape from all the illegalities done by the first respondent in an autocratic manner.

45.The question of challenging the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, in the present case, is not warranted due to the reason that the University itself admitted the fact that it has not received any aid either from the Central Government or from the UGC. Therefore, the stand taken by the first respondent, has no merit.

46.When such being the position, the letter issued by the UGC will not have any binding effect on the third respondent University so as to comply and consider the entire University as one unit for the purpose of reservation of posts in direct recruitment.

47.However, the University still wanted to follow the principles of Central Act and to consider the entire University as one unit for the purpose of reservation. In this regard, the University also passed a resolution dated 13.11.2019 whereby they have ratified the act of the third respondent University by issuing the impugned notification dated 08.07.2019. When the third respondent referred the resolution, dated 13.11.2019, it would be appropriate to state here relevant portion of the report of the Screening cum Evaluation Committee submitted to the University and the relevant portion of the resolution of Syndicate meeting, dated 31.10.2019 reads as follows:-

Report of Screening cum Evaluation Committee:

"Further, it is informed that the Principal Secretary to Government, Higher Education (H1) Department, (vide letter No.17867/K2/2018-2, Dated 29.08.2019) has given direction to the Universities stating that the existing reservation policy followed by the Universities may be pursued viz., each Department in the University may be taken as one unit for the purpose of reservation of posts in direct recruitment in Teacher's Cadre and also informed that the Universities may start up recruitment in teacher's cadre as per the above direction.

In the above circumstances, the Vice-Chancellor of this



University has requested the Principal Secretary to Government, Higher Education (H1) Department through in his letter No.H2/13677/2019, dated 04.09.2019, stating that, the communal roster system taking each department in the University taken as one unit for the direct recruitment in teachers cadre will lead to create legal issues since the advertisement has already been issued and applications received from the candidates and hence to kindly consider and support Bharathidasan University to proceed with the appointment with the already published advertisement according to the earlier UGC guidelines viz., communal roster system taking all departments as one unit."

Relevant portion of the Syndicate Resolution, dated 13.11.2019 reads as under:-

".... **Resolved further** that the said committee, considered the Letter received from University Grants Commission bearing No.F-1-5/2006 (SCT) dated 08.03.2019 and recommended that the University to follow communal roster system taking all departments as one Unit for the above appointment as per the University Grants Commission's direction **be approved and ratified** as a special case.

Resolved further that in view of the advertisement published in the Hindu (All India edition) and Dinamani (Tamil Nadu edition) on 10.07.2019 (i.e.) prior to the receipt of Letter from the Principal Secretary to Government, Higher Education (H1) Department bearing No.17867/K2/2018-2 dated 29.08.2019, wherein clarified to follow the communal roster system of the Government of Tamil Nadu treating each department of the University as one unit, the vacancies be filled up as advertised by the University as a special case.".

48.Mere perusal of the above would show that the Vice Chancellor of the third respondent University sent a letter to the first respondent dated 04.09.2019 stating that the communal roster system taking each department in the University as one unit for the direct recruitment in teachers cadre will lead to create legal issues since the advertisement has already been issued and applications received from the candidates and hence to kindly consider and support Bharathidasan University to proceed with the appointment with the already published advertisement according to the earlier UGC guidelines viz., communal roster system taking all departments as one unit.

49.Thus, in order to avoid the legal issues, the Bharathidasan University has requested the first respondent to ratify its notification by considering the entire University as a single unit, as a special case. Subsequently, the syndicate ratified the notification dated 08.07.2019 as a special case. In a comprehensive screening cum valuation committee report, Syndicate



Resolution and the Vice Chancellor's letter to the first respondent, it appears that the third respondent admitted the fact that they have issued the notification and in order to avoid the legal issues, they wanted the support of the first respondent to the Bharathidasan University and to permit the third respondent to go ahead with the appointment of Professors, Associate Professors and Assistant Professors consequent to the notification dated 08.07.2019 considering the University as one unit.

50. There was a proceedings of the first respondent dated 19.04.2002 wherein it has been clearly stated that at the time of recruitment the University shall follow the roster system and apply the reservation by treating the department / subject as one unit. Subsequently, the Hon'ble Supreme Court has held in number of Judgments that for the purpose of recruitment by the University, the department / subject shall be considered as one unit and not the entire department as one unit and apply the reservation.

51. At this point, it would be apposite to extract hereunder the direction issued by the first respondent dated 29.08.2019 to all Universities, which reads as follows:-

"I am directed to invite your attention to the references cited.

2. In the reference first cited, the Joint Secretary, University Grants Commission, New Delhi has stated that the Union of India and the University Grants Commission have filed separate petitions in the Hon'ble Supreme Court of India seeking special leave to appeal the final order and Judgment dated 07.04.2017 of the Hon'ble High Court of Judicature at Allahabad in the case of WPA No.43260 of 2016 filed by Shri Vivekanand Tewari and anr Vs. Union of India and others, which was upheld by the Hon'ble Supreme Court of India in the matter of implementation of Reservation Policy of Government of India. She has therefore requested the State Government to postpone the recruitment process in the Universities, if it is already underway, till further orders.

3. In the reference second cited, you have been requested not to process the recruitment of teaching positions until further orders from the University Grants Commission, New Delhi / Ministry of Human Resource Development, Government of India.

4. In the reference third cited, the Director, Department of Higher Education, Ministry of Human Resource Development, Government of India has stated that the Government has promulgated "The Central Educational Institutions (Reservation in Teachers' Cadre) Ordinance, 2019" and it has been notified in the official Gazette on 07.03.2019 and in compliance to the above, she has

requested the University Grants Commission to issue



necessary directions to the Universities to start recruitment immediately.

5. Based on the above, the Joint Secretary, University Grants Commission has communicated the copy of the above ordinance to the Registrars of all Central / State / Deemed to be Universities receiving grants-in-aid from University Grants Commission / Government for strict compliance and requested them to start recruitment immediately. He has also clarified in his letter dated 08.03.2019 that, for the purpose of reservation of posts in direct recruitment in Teachers' Cadre, the University / College / Institution shall be regarded as one unit.

6. I am to state that the above said bill has been enacted for the above objects and published in the Extraordinary Gazette of India on 09.07.2019.

7. The Clause (c) of Section 2 of the Central Educational Institutions (Reservation in Teachers' Cadre) Act, 2019 (Act No.10 of 2019), defines "Central Educational Institution" as,-

(i). a University established or incorporated by or under a Central Parliament;

(ii). an institution of national importance established by an Act of Parliament;

(iii). an institution, declared as an institution deemed to be University under Section 3 of the University Grants Commission Act, 195, and maintained by or receiving aid from the Central Government;

(iv). an institution maintained by or receiving aid from the Central Government, whether directly or indirectly, and affiliated to an institution referred to in sub-clause (i) or sub-clause (ii), or a constituent unit of an institution referred to in sub-clause (iii); and

(v). an educational institution established by the Central Government under the Societies Registration Act, 1860.

8. In this connection, I am directed to state that the 13 State Universities under the aegis of Higher Education do not fall within the ambit of sub-clauses (i), (ii), (iii) or (v) of Section 2 (c) of the Central Educational Institutions (Reservation in Teachers' Cadre) Act, 2019 (Act No.10 of 2019). As regards sub-clause (iv) of the Section 2 (c) of the said Act, it is presumed that the 13 Universities under the aegis of Higher Education is receiving aid from the Central Government. However, the said Universities are not affiliated to the institutions referred to in sub-clause (i) or sub-clause (ii) or a constituent unit of an institution referred to sub-clause (iii). As such, the said Universities do not fall within



the ambit of the definition of, 'Central Educational Institution' in Section 2(c) of the said Act. Hence, the aforesaid Central Act 10 of 2019 will not be applicable to the 13 State Universities under the aegis of Higher Education.

9.I am therefore, to state that the existing reservation policy followed by the Universities may be pursued viz., each Department in the University may be taken as one unit for the purpose of reservation of posts in direct recruitment in 'Teaches' Cadre. I am also to inform that the ban imposed on the recruitment of teaching positions in the 13 Universities under the aegis of Higher Education Department, vide Government letter dated 25.09.2018 is withdrawn and the Universities may start up recruitment in teachers' cadre as per the above direction."

52.On perusal of the above, it appears that they sought for clarification consequent to the first respondent proceedings dated 29.08.2019, wherein it has given direction to the Registrars of all Universities under the aegis of Higher Education Department, stating that the existing reservation policy followed by the 13 Universities under the aegis of Higher Education Department may be pursued, that is, each Department in the University may be taken as one unit for the purpose of reservation of posts in direct recruitment in Teacher's Cadre and also informed that the Universities may start up recruitment in teacher's cadre as per the above direction.

53.In this regard, the learned counsel appearing for the petitioners would refer the decision of the Hon'ble Apex Court in **STATE OF UTTAR PRADESH v. DINA NATH SHUKLA** reported in **AIR 1997 SC 1095**, wherein at paragraph No.13, it has held as follows:-

"Thus, it could be seen that if the subjectwise recruitment is adopted in each service or post in each cadre in each faculty, discipline, speciality or super-speciality, it would not only be clear to the candidates who seek recruitment but also there would not be an overlapping in application of the rule of reservation to the service or posts as specified and made applicable by Section 3 of the Act. On the other hand, if the total posts are advertised without subjectwise specifications, in every faculty, discipline, speciality or super-speciality, it would be difficult for the candidates to know as to which of the posts be available either to the general or reserved candidates or whether or not they fulfil or qualify the requirements so as to apply for a particular post and seek selection. As indicated earlier, if there is any single post of Professor, Reader or Lecturer in each faculty, discipline, speciality or super-

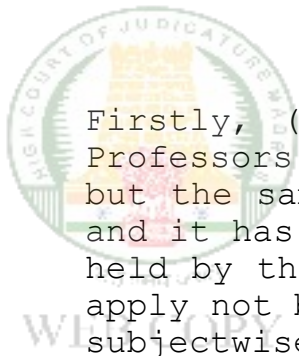


speciality which cannot be reserved for reserved candidates, it should be clubbed roster applied and be made available for the reserved candidates in terms of Section 3(5) of the Act. Even if there exists any isolated post, rule of rotation by application of roster should be adopted for appointment. For achieving the said object, the Vice-Chancellor, who is responsible authority under Section 4 to enforce the Act, would ensure that single posts in each category are clubbed since admittedly all the posts in each of the categories of Professors, Readers or Lecturers carry the same scale of pay. Therefore, their fusion is constitutional and permissible. The Vice-Chancellor should apply the rule of rotation and the roster as envisaged under sub-section (5) of Section 3. The advertisements are required to be issued so that the reserved and the general candidates would apply for consideration of their claims of recruitment in accordance therewith. This interpretation would subserve and elongate constitutional objective and public policy of socio-economic justice serving adequacy of representation in a service or post, grade or cadre as mandated and envisaged in Articles 335 and 16(4) read with Articles 14 and 16(1), Preamble, Article 38 and Article 46 of the Constitution and all other cognate provisions."

54.A perusal of the same would show that in the case of recruitment, the Universities shall consider the department / subject as single unit and even in case if there is an isolated post, it should be considered as a single unit and apply the reservation. Therefore, he contended that in the present case, the notification is contrary to the law laid down by the Hon'ble Apex Court in the above Judgment. However, Mr.ARL.Sundaresan, learned Senior Counsel appearing for the fourth respondent would contend that the said Judgment was overruled by the subsequent Judgments rendered by the Hon'ble Apex Court in **STATE OF U.P. v. M. C. CHATTOPADHYAYA** reported in **2004 (12) SCC 333**, wherein at paragraph No.6, it has observed as under:-

"While, therefore, we are of the considered opinion that there can be a reservation in respect of post of Professor and the provisions of the Reservation Act would apply, but the same cannot be applied taking all the Professors as a cadre and it has to be made subjectwise, as has been earlier construed and held by this Court. We are also of the opinion that there cannot be a reservation for an isolated post....."

55.I am also of the opinion that there can not be a reservation for an isolated post. On perusal of paragraph No.6 of the Judgment of Hon'ble Supreme Court (supra), it has expressed two opinions.

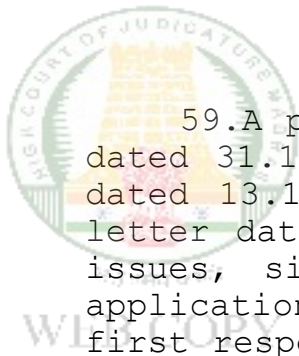


Firstly, (a).that there can be reservation in respect of post of Professors and the provisions of the Reservation Act would apply, but the same cannot be applied taking all the Professors as a cadre and it has to be made subjectwise, as has been earlier construed and held by this Court. As per their opinion, the reservation Act would apply not by taking all Professors as a cadre, but it has to be made subjectwise; and (b) that there cannot be a reservation for an isolated post.

56.So far as the reservation with regard to reservation for an isolated post is concerned, the decision of the Hon'ble Apex made in the case of **DINA NATH SHUKLA**, has not been followed and therefore, the said Judgment has been overruled to the extent that there cannot be a reservation for an isolated post. As far as the reservation with regard to subject wise at the time of direct recruitment by the Universities has been upheld and the same is required to be followed.

57.When the law settled down as stated above, with regard to the stand of the reservation in the Universities considering the each department as one unit and that there were proceedings of first respondent dated 19.04.2002 and 29.08.2019 also with regard to the consideration of department as one unit, and the previous recruitments were made by the third respondent University considering the department as one unit, in the present case, wrongly construing the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019, and the communication issued by UGC dated 08.03.2019, the third respondent issued the impugned notification considering the University as a single unit for appointment of Professors, Associate Professors and Assistant Professors, which is totally contrary to the law settled down by the Hon'ble Apex Court and proceedings of the first respondent dated 19.04.2002, 29.08.2019 and the policy of the reservation of the State Government. On these grounds the impugned notification as well as the consequential notification is liable to be quashed.

58.Even assuming if the third respondent issued the notification wrongly on 08.07.2019, the first respondent once again by virtue of the proceedings dated 29.08.2019 issued a detailed clarification holding that 13 State Universities which are under the aegis of the higher education department, requires to follow the existing reservation policy by considering each department in the University as one unit. Thereafter, the third respondent should have withdrawn their notification to avoid any further damage to the University by virtue of the legal proceedings as apprehended by them. It is the third respondent, who invited the present litigation by virtue of the non compliance of the proceedings of the first respondent, dated 29.08.2019 considering each department / subject as one unit, along with the law laid down by the Hon'ble Apex Court.



59.A perusal of the Screening cum Valuation Committee's report, dated 31.10.2019 and the resolution passed by the third respondent dated 13.11.2019, would show that the Vice Chancellor has sent a letter dated 04.09.2019 to the first respondent to avoid the legal issues, since the advertisement has already been issued and the applications received from the candidates, sought support of the first respondent to go ahead and make appointment of the persons as per notification dated 08.07.2019. At any cost, the second and third respondents to set right the wrong committed in issuing the impugned notification, cannot be allowed to deviate the law settled by the Apex Court and first respondent proceedings dated 19.04.2002 and 29.08.2019 and the reservation policy of the State.

60.It would be appropriate to state here the communication of the first respondent, dated 28.05.2020, sent to the third respondent, which reads as under:-

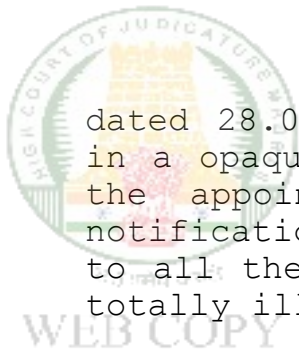
"I am directed to invite your attention to the references cited wherein you have requested to consider and permit to proceed with the appointment of teaching posts as already advertised according to the UGC guidelines viz., communal roster system taking all departments of the University as one unit.

2.I am to state that you may proceed with the appointment of teaching posts in the Bharathidasan University in accordance with the UGC guidelines and for the purpose of reservation of the posts the University shall be taken as one unit."

61.A perusal of the letter, it appears that both the Registrar and the Vice Chancellor of Bharathidasan University made a request to the first respondent to permit them to proceed with the appointment of teaching post inspite of the detailed clarification issued by Thiru.Mangat Ram Sharma, IAS who was the then Principal Secretary to Government to the first respondent and subsequent to the transfer of Mangat Ram Sharma, Selvi Apoorva, IAS, has been appointed, who is now representing the first respondent and sent the above letter to the University stating that it may proceed with the appointment of teaching posts in the Bharathidasan University in accordance with the UGC guidelines and for the purpose of reservation of the posts the University shall be taken as one unit.

62.As already held by this Court, in the present case, the UGC guidelines as well as the Central Act will not apply, since the University is not a Central University within the meaning of the Act to consider the entire University as one unit.

63.Such being the case, by deviating the law settled down by the Hon'ble Apex Court and the proceedings of the first respondent, dated 19.04.2002 and 29.08.2019, the first respondent vide letter



dated 28.05.2020, once again, without any substantial explanation, in a opaque manner, permitted the third respondent to proceed with the appointment of teaching posts consequent to the impugned notification dated 08.07.2019, which is contrary to the letter sent to all the Universities, dated 19.04.2002 and 29.08.2019, which is totally illegal and liable to be set aside.

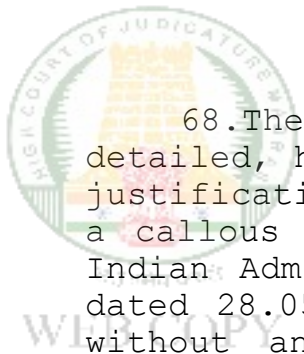
64.As stated above Selvi Apoorva, the Principal Secretary to Government sent a letter dated 28.05.2020 to the third respondent University permitting the University to proceed with the appointment of teaching posts in Bharathidasan University in accordance with the UGC guidelines and for the purpose of reservation of the posts the University shall be taken as one unit.

65.Subsequent to the impugned notification for recruitment, dated 08.07.2019, the then Principal Secretary has issued a very detailed clarification vide proceedings dated 29.08.2019. He has clarified to the Registrar of all Universities that the Universities comes under the aegis of Higher Education Department will not come under the definition of Central Universities under the Central Educational Institutions (Reservation in Teachers Cadre) Act, 2019. When such a clarification was issued, by the then Principal Secretary, there was no rhyme or reason for Selvi Apoorva, the present Principal Secretary to the Government, the first respondent herein issued the letter dated 28.05.2020 to the second and third respondents, in complete disregard to the proceedings of the then Principal Secretary, dated 29.08.2019. By doing so, she has completely ignored to the reservation policy of the State as well as law settled by the Hon'ble Supreme Court.

66.At this juncture, this Court would like to press into service the Judgment of the Hon'ble Apex Court in **MOHINDER SINGH GILL v. THE CHIEF ELECTION COMMISSIONER**, reported in **1978 (1) SCC 405**, held at paragraph No.8, as follows:-

".... The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to the Court on account of a challenge, get validated by additional grounds later brought out."

67.A mere reading of the above dictum of the Hon'ble Supreme Court makes it clear that every executive decision of the Government Order has to survive based on its own reasoning. The authority cannot be permitted to add or supplement reasons later when the proceedings are challenged before the Court by filing counter affidavit and explaining the scope of defence.



68.The earlier clarification, dated 29.08.2019 which was very detailed, has been undone by the letter dated 28.05.2020 without any justification in a whimsical fashion. This Court did not expect such a callous and unjustifiable conduct from a senior member of the Indian Administrative Service. The letter of the first respondent dated 28.05.2020, on its face shows that the same has been issued without any reasoning or application of mind and the previous communication has been casually brushed aside. The act of the first respondent is contrary to the law laid down by Hon'ble Apex Court.

69.A member of all India service is expected to act in accordance with the Law, Rules and Regulations and established practices. The discretion conferred upon them cannot be abused or taken as a license to do what they like or dislike. They are expected to act utmost professionalism of the highest degree and set a bench mark for their subordinates to follow.

70.In the present case, this Court is constrained to remark that no professional approach or proper application of mind is evidenced from the conduct of Selvi Apoorva, IAS. She has not adhered to or followed the conduct rules of All India Service. Therefore, the ability and suitability of her to hold the present position in the Government required serious consideration.

71.The officers are for ensuring that the Governmental functions are performed legally and diligently. Her conduct shows that neither of these has been followed. Therefore, the ability and suitability of Selvi Apoorva, IAS, needs re-appraisal and reconsideration by appropriate authority.

72.Further, this Court is also unable to trace out any materials to sustain impugned notification dated 08.07.2019.

73.Therefore, I have no hesitation to set aside the impugned notification dated 08.07.2019 and the consequential approval of the first respondent, dated 28.05.2020.

74.This Court has already held that the Bharathidasan University is not a Central University nor it does get any aid from the Central Government and therefore, the clarification letter issued on 08.03.2019 will apply only to the Central Universities and the State Universities, which are receiving aid from the Central Government. In the present case, the third respondent/Bharathidasan University is not a Central University or State University, as it does not get any aid from the Central Government. Therefore, the clarification issued by the UGC will not, no way, bind the third respondent University. Any decision taken by the syndicate in its meeting dated 13.11.2019 with reference to the notification dated 08.03.2019, automatically, will not have any effect.

<https://hcservices.ecourts.gov.in/hcservices/> of the above, I propose to allow these writ



petitions. Accordingly, these writ petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Mark a copy to the Chief Secretary to take appropriate action in the light of the above observations.

76.W.P. (MD) No.14776 of 2020:

(i).This writ petition is filed seeking direction to the respondents to complete the selection process consequent to the notification dated 08.07.2019.

(ii).Heard Mr.B.Prasanna Vinoth, learned counsel appearing for the petitioner; Mr.M.Karuppasamy, learned Government Advocate appearing for the first respondent; Mr.V.R.Shanmuganathan, learned standing counsel appearing for the respondents 2 and 3 and perused the materials available on record.

(iii).In view of the decision taken by this Court in W.P.(MD) No.7189 and 15586 of 2020, by setting aside the notification dated 08.07.2019, no further order is required in the present writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rj2

To

The Principal Secretary to Government,
State of Tamil Nadu, Department of Higher Education, Chennai - 9.

Copy To:-

The Chief Secretary to Government,
State of Tamil Nadu, Secretariat, Fort St. George,
Chennai -600 009.

+1 CC to M/s.SPL GP (SR-27272[F] dated 28/12/2020)
+1 CC to Mr.B.Prasanna Vinoth SR-27173

Pre-delivery Order made in
W.P (MD) .Nos.7189; 14776 and 15586
of 2020
23.12.2020

(SRK) CO

AP (30/12/2020) 25P 5C

<https://hcservices.ecourts.gov.in/hcservices/>