

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 23279 of 2004
and
W.M.P. No. 28168 of 2004

M.Anandakrishnan,
Member-Syndicate,
Manonmaniam Sundaranar University.

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Represented by the
Secretary to Education,
Chennai - 9.
2. The Vice-Chancellor,
Manonmaniam Sundaranar University,
Tirunelveli District.
3. The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli District.
4. The All India Council of Technical Education,
Regional Office,
Chennai.
5. The University Grants Commission,
Regional Office,
Hyderabad.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration declaring the entire selection process in the appointment of Professor / Reader / Lecturer pursuant to the advertisement dated 23.06.2004 is illegal, violative of guidelines of the respondents 1, 4 and 5 and invalided.

For Petitioner :No appearance

For Respondents:Mrs.K.Bhuvaneswari

Addl. Govt. Pleader for R1

Mr.I.Calvin Jones

for M/s.Ajmal Associates for R2&R3

Mr.N.Muralikrishnan
ACGSC for R4
Mr.R.Gopinath for R5

O R D E R

The prayer sought for herein is for a Writ of Declaration declaring the entire selection process in the appointment of Professor / Reader / Lecturer pursuant to the advertisement dated 23.06.2004 is illegal, violative of guidelines of the respondents 1, 4 and 5 and invalidated.

2. The petitioner was the member of the Syndicate of the second respondent University namely Manonmaniam Sundaranar University. He seeks for declaration declaring the selection process in the appointment of Professor / Reader / Lecturer pursuant to the advertisement dated 23.06.2004 issued by the University as illegal or violative of the first, fourth and fifth respondents guidelines.

3. When this case is taken up for final hearing today, there is no representation for the petitioner. However, the learned Standing counsel appearing for the respondents University submitted that, since the petitioner being the member of the Syndicate, at that time, whatever decision taken by the University Syndicate, he cannot question such decision taken by the University through his Syndicate, which is the highest executive body of the University. In this regard, the law has been well settled, he contended and he relied upon the decision of Hon'ble Supreme Court in (1994) 3 SCC 220 made in Bihar Public Service Commission and another vs. Dr.Shiv Jatan Thakur and others.

4. I have heard the said submissions made by the learned Standing counsel appearing for the respondents University and have perused the materials placed before this Court.

5. As has been rightly pointed out by the learned Standing counsel appearing for the University, the petitioner was the member of the Syndicate of the University at the relevant point of time. If at all the petitioner had any grievance regarding the manner in which the notification was issued by the University for selection and appointment of faculties, that could have been raised before the University Syndicate which is a highest decision making body of the University.

6. If at all, such issue has been raised by the petitioner, whatever decision taken by the Syndicate either by unanimity or majority, that should be the decision of the University. Therefore, even if the petitioner has got a different view on any decision taken by the University at their Syndicate, that cannot be questioned by the Syndicate member in the Court of Law.

7. In this context, the law as has been pointed out by the learned Standing counsel, is well settled in the aforecited judgment, which reads thus:

"28. Shri R.K. Garg, Senior Advocate, who appeared for Dr. Thakur, the petitioner in the writ petition, since did not make any submission in support of the reliefs sought in paragraphs (B) and (C) of the prayer in the writ petition, we do not feel the need to consider them. Shri Garg, we are inclined to think, did not make any submission in support of the reliefs sought in paragraphs (B) and (C) obviously realizing that the allegations on which those reliefs were founded, related to functions of the BPSC, which could not have been disowned by the BPSC's sitting member. Whatever that be, no member of a Public Service Commission, in our considered view, could be allowed to question the validity or correctness of the functions performed or duties discharged by the Public Service Commission as a body, while he was its member. It ought be so for the simple reason that, such member must be regarded to be a party to the function required to be performed or the duty required to be discharged by the Public Service Commission as a body or institution, even though he might have been a dissenting member or a member in a minority or a member who had abstained from taking part in such function performed or duty discharged. Discretionary remedy vested in the High Court under Article 226 of the Constitution cannot, therefore, be allowed to be invoked by a member of the Public Service Commission to question the correctness or validity of functions performed or duties discharged by the Public Service Commission as a body or institution, according to well established procedures."

8. There are number of judgments passed by the Hon'ble Supreme Court in that line, therefore, there would be no second opinion, that, a person, who has already been the member of any decision making body, cannot question the decision of such decision making body in the Court of Law and if at all, any member of that decision making body has got grievance for a particular decision, that can be only raised in that forum.

9. In view of that legal position, this Court feels that, the petitioner does not have the locus to challenge the University Syndicate's decision, being a member of the Syndicate at relevant point of time and therefore, on that ground itself, this Writ Petition is liable to be dismissed, accordingly it is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vji
To

1. The Secretary to Education,
Government of Tamil Nadu,
Chennai - 9.
2. The Vice-Chancellor,
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Tirunelveli District.
3. The Registrar,
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+1 CC to The Government Pleader sr 13163.
+1 CC to M/s. Ajmal Associates sr 13462.
+1 CC to Mr.S. Venkateswaran, Advocate sr 13015.

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UM(CO)
SP(13/07/2021)