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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.3943 of 2004

N.Sailapathi

... Petitioner

Vs.

1.The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

2.The Chairman,
University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

3.The Registrar,
University of Madras,
Chepauk Campus,
Chennai - 600 005.

4.Mr.Jayanth Jacob

5.A.K.Sheikh Manzil

6. ***R.Mahesh**

7.N.Senthil Kumar

8.The Director of Technical Education,
T.N.Anna University, Chennai - 25.

9.The Member Secretary,
All India Council for Technical Education,
New Delhi.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare the appointment of respondents 4 to 7 as Lecturers in the Department of Management Studies in the First respondent University as illegal and unconstitutional and consequently direct the first respondent University to appoint



the petitioner as a Lecturer in the Department of Management Studies in the first respondent University.

For Petitioner : Ms.Karpagam

For Respondent No.1 : Mr.Govarthanan

For Respondent No.2 : Mr.P.R.Gopinathan

For Respondent No.3 : Mr.L.P.Shanmugasundaram

For Respondent No.9 : Mrs.A.L.Gandhimadhi

For Respondent
Nos. 4 to 7 : No appearance

O R D E R

The Writ Petition is directed against selection of respondent Nos.4 to 7 to the post of Lecturer in Management under the first respondent University.

2. According to the petitioner, the first respondent issued an Advertisement calling for candidates to the post of Lecturer in Management. 22 candidates appeared for the interview and he was also one of the qualified candidates having passed UGC National Eligibility Test (NET). Respondent Nos.4 to 7 were not qualified as they have not passed UGC National Eligibility Test. The second respondent/University Grants Commission is the Governing Body in respect of all colleges affiliated to it for appointment for the post of Lecturer, and it is mandatory to pass the National Eligibility Test conducted by the University Grants Commission. But, the first respondent without following the regulations of the second respondent appointed respondent Nos. 4 to 7. Therefore, the petitioner has challenged the order of appointment seeking to appoint him as Lecturer in Management in the particular selection.

3. The learned counsel for the first respondent University would submit that as per G.O.(Ms).No.341, Higher Education (C2) Department, dated 07.08.2000, the qualification prescribed for the post of Lecturer in Management is First Class Post Graduate Degree in Management. The Advertisement issued by the first respondent dated 14.05.2003 also prescribed First Class Master's Degree in Business Management/Administration as required qualification and a Doctorate and teaching experience as desirable qualifications. Accordingly, the selection was conducted and respondent Nos. 4 to 7 were selected for the post of Lecturer in Management and now that, they have been promoted and holding the post of Professor in the University. According



to him, the All India Council for Technical Education (AICTE) is the Governing Body in respect of Technical Education is concerned and the University Grants Commission is not the Governing Body as for the subject Management studies.

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4. The learned counsel appearing for the University Grants Commission would submit that insofar as the Technical Education is concerned, it does not fall within their purview and therefore, they have no concern for the selection made by the first respondent.

5. The learned counsel for the petitioner would vehemently contend that it is well settled that for the post of Lecturer/Professor, a pass in National Eligibility Test is a mandatory. The petitioner possessed that qualification, whereas, respondent Nos. 4 to 7 have not passed the National Eligibility Test and as such, they are disqualified. They made a representation to the second respondent and those emails were forwarded to the AICTE, but, still they have not taken any action. Therefore, the selection shall be set aside.

6. I have considered the submissions made on either side and perused the materials placed before this Court.

7. Admittedly, the post of Lecturer in Business Management falls within the purview of the AICTE. As per Government Order issued by the Government of Tamilnadu in G.O. (Ms).No.341, Higher Education (C2) Department, dated 07.08.2000, the educational qualification is prescribed as Post Graduate Degree in Management / Administration and the advertisement issued by the first respondent also specified the very same qualification and it does not prescribe requirement of pass in National Eligibility Test conducted by the University Grants Commission. As long as, the Business Management is governed by the regulations of AICTE, the University Grants Commission has no role and those regulations of University Grants Commission will not apply to the selection for the post of Lecturer in Management. However, the entire body of the affidavit filed in support of the Writ Petition proceeds on the basis of selection is governed by the regulations of University Grants Commission and a pass in National Eligibility Test is a mandatory requirement. The contention of the Writ Petitioner is misplaced and misconstrued. The essential qualification for appointment to the post of Lecturer in Management, as per the rules and notification, a pass in Master in Management/ Administration is enough and a person possessing Doctorate in Management / Administration and other experience is desirable. Therefore, when the employer desires to select candidates with a particular qualification, the aspirants cannot fix any qualification as desired by them. Possessing better qualification will be useful for appointment to the post approved by the University Grants



Commission regulation and not under AICTE regulation. Therefore, the petitioner cannot apply the rule, which is applicable to the AICTE or the post of Lecturer in Management under the control of the first respondent.

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8. Therefore, I find no merit in the Writ Petition and accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

02.07.2021

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This case having been posted under the caption 'For Being Mentioned' on 30.09.2021 in pursuance to the order dated 02.07.2021 and upon hearing the arguments of Ms.Karpagam, Advocate for the petitioner and of Mr.Govarthanan, Advocate for the first respondent, Mr.P.R.Gopinathan, Advocate for the second respondent, Mr.L.P.Shanmugasundaram, Advocate for the third respondent and Mrs.A.L.Ganthimathi, Advocate for the Ninth respondent, this Court made the following order :

This matter is listed today under the caption "for being mentioned" at the instance of the learned counsel for the respondent.

2. The learned counsel for the 6th respondent submits that in the cause title of the order dated 02.07.2021 made in W.P.No.3943 of 2004, the name of the 6th respondent is wrongly typed as "R.Ramesh" instead of "R.Mahesh".

3. Therefore, Registry is directed to correct the name of the 6th respondent in the cause title as "R.Mahesh" and issue a fresh order copy to the parties on or before 04.10.2021.

30.09.2021

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Sd/-

Assistant Registrar(CS-VIII)

Dated : 28/07/2021

***Corrected as per the order of
this Court dated 30.09.2021 in
in W.P.No.3943 of 2004**

Sd/-

Deputy Registrar

dated : 01/10/2021

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Anna University,
Sardar Patel Road,
Chennai - 600 025.

2.The Chairman,
University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

3.The Registrar,
University of Madras,
Chepauk Campus,
Chennai - 600 005.

4.The Director of Technical Education,
T.N.Anna University, Chennai - 25.

5.The Member Secretary,
All India Council for Technical Education,
New Delhi.

+1cc to M/s.Row & Reddy, Advocate Sr.30888

+1cc to M/s.A.L.Ganthimathi, Advocate Sr.31050

**To be substituted
to the order already
despatched on
25.08.2021**

W.P.No.3943 of 2004

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srg 06/08/2021
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