



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.14890 OF 2019

AND

W.M.P.NOS.14873, 14875 AND 14877 OF 2019

VASS Charitable Trust
Represented by its Trustee
Mr.K.P.Balakrishnan

...Petitioner

Vs.

- 1.The Principal Secretary to Government,
Higher Education (H1) Department,
Fort St.George,
Chennai 9.
- 2.Registrar,
Bharathiyar University,
Coimbatore 46.
- 3.The Directorate of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road, Chennai 600 006.
- 4.The University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent in Letter No.10842/H2/2018-1 Dated 27.06.2018 and the consequential proceedings of the 2nd respondent in No BU/R/A3/2018 dated 03.07.2018, quash the same and consequently direct the 1st respondent to implement the UGC Guidelines of the year 2010.

For Petitioner : Mr.S.Prabhakaran

For Respondents : Mr.M.R.Gokul Krishnan for R1
Government Advocate
No Appearance for R2
Mr.B.Rabumanohar for R4
Standing Counsel



O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Letter No.10842/H2/2018-1 dated 27.06.2018 and the consequential proceedings of the second respondent in No BU/R/A3/2018 dated 03.07.2018, to quash the same and to consequently direct the first respondent to implement the UGC Guidelines of the year 2010.

2.The case of the petitioner is that the petitioner is a Trust formed during the year 2007 with an object to promote and facilitate education and in accordance with the object of the Trust, Kamban College of Arts and Science, Sulthanpet, Coimbatore, was commenced during the year 2008. The College is self financing College affiliated with Bharathiyar University and it offers B.Com. (Two Courses), B.B.M., B.C.A., B.Sc.(Two Courses) and the Management decided to recruit retired Professor from Government/ Government aided Colleges as the Principal and invited applications and appointed Principal.

3.The further case of the petitioner is that the private Colleges are governed by the Tamilnadu Private College (Regulation) Act, 1976 and Chapter IV of the said Act deals with the terms and conditions of service of Teachers and other persons employed in private Colleges. As per Section 17 of the Act, the Government may make Rules in consultation with the University with regard to the conditions of service including promotion, pay allowances, leave, pension and age of retirement and rights as 'respects disciplinary matter but excluding qualifications' of Teachers and other persons employed in any private Colleges and such Rules have to be in consonance with the UGC Regulations.

4.The further case of the petitioner is that the Government issued G.O.Ms.No.325, Higher Education (H1) Department, dated 18.05.2003, wherein the Government resolved to implement UGC guidelines and directed the Registrars of all the Universities and the Director of Collegiate Education to take necessary action whereby no retired Teachers after the age of 62 years are appointed in any statutory or even non-statutory position in Universities/ Colleges based on the then existing regulations of UGC.

5.The further case of the petitioner is that till the year 2017, the Bharathiyar University permitted the retired Teachers who were functioning as Principals in various private Colleges to serve till the age of 65 years. Thereafter, various resolutions were passed and the second respondent approached the



first respondent vide communication dated 30.05.2018 requesting to raise the age limit of the Principals in self financing Colleges to 65 years. However, the first respondent vide communication dated 27.06.2018 rejected the same and based on the communication dated 27.06.2018, the second respondent vide letter dated 03.07.2018, informed the Principals of all self financing Colleges affiliated to Bharathiyar University that no retired Teachers after the age of 62 years be appointed in any statutory or even non-statutory position in self financing Colleges affiliated to Bharathiyar University. Hence, this writ petition.

6.The learned counsel appearing for the petitioner would submit that as per norm 2.1 of the UGC Regulation Notification dated 18.07.2018, subject to the availability of vacant positions and fitness, Teachers such as Assistant Professor, Associate Professor, Professor and Senior Professor only, may be re-employed on contract appointment beyond the age of superannuation, as applicable to the concerned University, College and Institution up to the age of 70 years and would further submit that the impugned communications are contrary to UGC norms and prayed for allowing the writ petition.

7.The learned Government Advocate would submit that UGC Regulation Notification dated 18.07.2018 is applicable to only contract employment and not regular employment and since the petitioner is seeking increase in age limit of superannuation from 62 years to 65 years in regular employment, it is not permissible.

8.Heard the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

9.The petitioner citing UGC Regulation Notification dated 18.07.2018 contends that the age limit of superannuation can be increased from 62 years to 65 years in self financing Colleges affiliated to Bharathiyar University. For better appreciation, norm 2.1 of the UGC Regulation Notification dated 18.07.2018 is extracted hereunder:

"2.1 Subject to the availability of vacant positions and fitness, teachers such as Assistant Professor, Associate Professor, Professor and Senior Professor only, may be re-employed on contract appointment beyond the age of superannuation, as applicable to the concerned University, college and Institution, up to the age of seventy years."



WEB COPY

10. Perusal of norm 2.1 of the UGC Regulation Notification dated 18.07.2018 reveals that the Notification relates to only contract employment, however, in the present case, the petitioner is seeking increase in age limit of superannuation from 62 years to 65 years in regular employment, which cannot be considered unless G.O.Ms.No.325, Higher Education (H1) Department, dated 18.05.2003, is challenged in the manner known to law.

11. The Government issued G.O.Ms.No.325, Higher Education (H1) Department, dated 18.05.2003, wherein the Government resolved to implement UGC guidelines and directed the Registrars of all the Universities and the Director of Collegiate Education to take necessary action whereby no retired Teachers after the age of 62 years are appointed in any statutory or even non-statutory position in Universities/ Colleges based on the then existing regulations of UGC. Hence, contrary to the said Government Order, this Court cannot issue any direction to the University for raising the age limit. Hence, the prayer sought for in this writ petition is mis-conceived.

12. The writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

pri

To

1. The Principal Secretary to Government,
Higher Education (H1) Department,
Fort St. George,
Chennai 9.
2. Registrar,
Bharathiyar University,
Coimbatore 46.
3. The Directorate of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai 600 006.



4.The University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

+1cc to M/s.B.Rabu Manohar, Advocate SR.No.58690

+1cc to M/s.S.Prabhakaran, Advocate SR.No.59352

+1cc to the Government Pleader SR.No.59026

W.P.No.14890 of 2019

And

W.M.P.Nos.14873, 14875

and 14877 of 2019

RGN(CO)

RVM(05/01/2022)