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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	17.09.2021
Pronounced On	15.11.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.15246 of 2018

and

W.M.P.Nos.18074 of 2018 & 6417 of 2021

(Through Video Conferencing)

Dr.K.Thamizharasan

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai - 600 009.
2. University Grants Commission,
Rep. by its Secretary,
New Delhi.
3. Theagaraya Chetty Educational Institutions
Sir Theagaraya College Committee,
Rep. by its Secretary,
Old No.345, New No.1047,
T.H.Road, Old Washhermenpet,
Chennai - 600 021.
4. The Secretary & Correspondent,
Theagaraya Chetty Educational Institutions,
Sir Theagaraya College Committee,
Chennai - 600 021.
5. Dr.P.Senthilkumaar
6. The Director of Collegiate Education,
DPI Campus, E.V.K.Sampath Malligai,
College Road, Chennai - 600 006.
7. The Joint Director of Collegiate Education,
Chennai Region, Saidapet,
Chennai - 600 005.



8. The Vice Chancellor / Registrar,
Madras University, Chepauk,
Chennai - 600 005.

... Respondents

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(R6 to R8 were impleaded vide order dated
05.04.2019 made in W.M.P.No.21897 of 2018)

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the fourth respondent dated 09.06.2018 appointing the fifth respondent as the Principal of the fourth respondent college and quash the same as illegal and direct the fourth respondent to appoint the petitioner as the Principal.

For Petitioner	: M/s.Arulmozhi
For R1, R6 & R7	: Mr.L.S.M.Hasan Fizal, Govt. Adv.
For R2	: Mr.P.R.Gopinathan
For R3 & R4	: Mr.B.Ravi
For R5	: Mrs.Hema Sampath, Senior Counsel for M/s.S.Nandhini Devi.
For R8	: Mr.L.P.Shanmugasundaram

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the fourth respondent dated 09.06.2018 appointing the fifth respondent as the Principal of the fourth respondent college and quash the same as illegal and to direct the fourth respondent to appoint the petitioner as Principal.

2. It is the case of the petitioner that though the petitioner was eligible to be appointed to the post of Principal in the fourth respondent college, the fifth respondent was appointed as the Principal in the fourth respondent college by its College Committee. It is submitted that a notification dated 21.04.2018 was issued by the fourth respondent for the post of the Principal in the fourth respondent. The petitioner and the fifth respondent applied for the same post along with



Dr.Thiyagarajan. However, Dr.Thiyagarajan later withdrew his application on account of his health condition.

3. The learned counsel for the petitioner submits that though the interview was fixed on 31.05.2018, it was later postponed to 02.06.2018. It is submitted that the postponement of the interview was purportedly for the purpose of increasing the Academic Performance Indicator (API) score of the fifth respondent as the API score of the fifth respondent was lesser than the petitioner. It is submitted that the petitioner participated in the Interview conducted by the Selection Committee of the fourth respondent and performed well and established his experience in administration. However, the fifth respondent was selected and appointed as the Principal of the fourth respondent College by the Selection Committee of the third respondent despite lower API score.

4. It is further submitted that after the previous Principal retired from service on 31.05.2018, the petitioner was appointed as Principal In-charge as the petitioner was the senior most Associate Professor and an relieving order was served to the petitioner informing that the fifth respondent was selected and appointed as the Principal in the fourth respondent college. It is further submitted that the petitioner was more eligible to the post of Principal in the fourth respondent college and therefore, the appointment of the fifth respondent as the Principal was liable to be quashed and instead, the petitioner may be directed to be appointed to the said post. In support of the above plea, the petitioner's service and performance record was invited which reads as follows:-

- i. The petitioner was appointed as a Lecturer in the year 1991 and the service of the petitioner at the time of filing of this Writ Petition was 27 years and 3 three months.
- ii. The petitioner has published research papers both in the International Journals (34 papers) and in the National Journals (13 papers).
- iii. The petitioner has worked with a minor research project for two years and his research guidance has produced 16 M.Phil., 3 Ph.D., and 1 Thesis submitted.
- iv. The petitioner has attended training courses, workshops and faculty development programmes.
- v. The petitioner has participated in 11 International Conferences and 18 National



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Conferences and presented research papers.

vi. The petitioner was an NSS Programme Officer for three years and was a Dean of students for one year.

vii. The petitioner was a member of Board of studies (UG) of University of Madras, a member of students' Admission Committee, College Council and College Committee.

viii. The petitioner was the Head of Department of Physics in the third respondent college.

5. The first respondent in its counter affidavit has stated that the first respondent has no any role in the selection process to the post of the Principal in the fourth respondent college as the fourth respondent college was governed by the provisions of the Tamil Nadu Private College (Regulation) Act, 1976 and Rules thereunder and the appointments and promotions in the Private Aided Colleges are to be made by the Selection Committee constituted as per UGC Regulation, 2000. It is further submitted that the concerned Regional Joint Directorate of Collegiate Education approves the appointment and promotion of the selected candidate. Based on the approval granted by the Regional Joint Directorate of Collegiate Education, the permissions are accorded by the sixth respondent Director of Collegiate Education, Chennai-6.

6. It is therefore submitted that the first respondent has no role in the selection of the fifth respondent as Principal in the fourth respondent college and the first respondent has granted approval subject to the final disposal of this Writ Petition. It is further submitted that this Writ Petition lacks merits and is liable to be dismissed.

7. The third and fourth respondents on behalf of the college, in their counter affidavit, have stated that the petitioner has no locus to challenge the selection of the fifth respondent and the process of selection, after having participated in the process of selection. The advertisement was published for the post of the Principal in the fourth respondent college on 21.04.2018 due to the vacancy caused by the retirement of the then incumbent. It is also submitted that as per UGC Guidelines, the Selection Committee was constituted consisting of the members of the Management, V.C. Nominees and Subject Experts. Three applications were received by the College from the applicants i.e., the petitioner, the fifth respondent and Dr.K.Thiyagarajan and that Dr.K.Thiyagarajan withdrew his



application as he was suffering from Chicken Pox on the date of interview.

8. It is further submitted by the third and fourth respondents that the interview was postponed only for the purpose of completion of verification of API scores of the two applicants i.e., the petitioner and the fifth respondent, by a Competent Senior Professor from the University of Madras. It is further submitted that on the verification of API scores, the petitioner had scored only 583.50 API scores, whereas, the fifth respondent had scored 881 API scores. The third and fourth respondent have further stated that the API scores cannot be increased or decreased at whims and fancies of any person and the calculation of API scores was based on the details and information furnished by the individual candidate with supportive documents and are subject to self assessment and verification by a neutral competent person and the API scores have been calculated as per UGC Guidelines.

9. It is submitted that the selection of the Principal was not through the process of promotion. It was through the "Direct Recruitment" by publishing the advertisement in 'The Hindu' and 'Dinamalar' the daily newspapers both in English and Tamil. It is further submitted that a meritorious candidate has been selected and there is no violation of Rule 11(4)(1) of the Tamil Nadu Private Colleges (Regulation) Rules. It is submitted that the Rule 11(4)(1) of the Rules is not applicable at all as the selection of the Principal was through "Direct Recruitment" and therefore, this Writ Petition was liable to be dismissed.

10. In support of the case, the learned counsel for the third and fourth respondents relied on the following case laws:-

- i. Dr.T.Venkataraman Vs. The Director of Collegiate Education and Others, 2003 SCC OnLine Mad 1140.
- ii. Dr.S.Arulmani Vs. Government of Tamil Nadu, rep. By its Secretary and Commissioner, Department of Higher Education, 2006 SCC OnLine Mad 241.
- iii. The Secretary, Kamaraj College, Thoothukudi Vs. D.S.Arulmani and Others, (2008) 1 L.W. 530.
- iv. Dr.K.Ganesan Vs. University Grants Commission and Others, order dated 12.07.2010 passed by the Madurai Bench of this Court in W.P. (MD) No.7609 of 2009.



v. D.Sarojakumari Vs. R.Helen Thilakom and Others,
(2017) 9 SCC 478.

11. The fifth respondent was selected as the Principal in the fourth respondent college by the Selection Committee and preference was given to him over the petitioner. In his counter affidavit, the fifth respondent has reiterated the content of counter affidavit of the third and fourth respondents and submitted that the Selection Committee was constituted as per the UGC Regulation and the selection of the fifth respondent as the Principal of the fourth respondent college was based on the marks obtained by him both in the interview and on the marks awarded for API scores. It is submitted that the fifth respondent had scored 884 points in API scores while the petitioner had scored only 583.5 points in API score and that the process of selection to the post of Principal was only through direct recruitment and not through promotion and therefore, the selection of the fifth respondent was legal based on the performance and the service of the fifth respondent. According to the fifth respondent, performance and the service of him are given as follows:-

- i. The fifth respondent was selected as a Lecturer in the third respondent in 1998.
- ii. The fifth respondent was evaluated to Lecturer Senior scale and subsequently to Selection Grade in 2002 and 2007 respectively.
- iii. The fifth respondent was thereafter promoted as Associate Professor on 24.06.2010.
- iv. The fifth respondent was Head of Department of Zoology.
- v. The fifth respondent had published 50 research papers.
- vi. The fifth respondent was also conferred with 'Max Plank Research Award-2015 in the field of 'Entomology' for publication in the Journal of Biodiversity.
- vii. The fifth respondent has attended various conference proceedings and submitted full papers.
- viii. The fifth respondent has also attended refresher and orientation courses and four International Conferences and 9 National



Conference.

ix. The fifth respondent has guided 13 M.Phil degree awardees and 9 Ph.D degree awardees.

12. After the counter affidavit was filed by the first, third, fourth and fifth respondents, the petitioner has filed a reply affidavit. The petitioner in his reply affidavit has stated that as per the UGC Guidelines, for calculation of API scores, the research papers published in journals are divided in two major categories, i.e. (i) Referred Journal, (ii) Non-Referred Journals. It is also submitted that for Referred Category, the Articles / Research Papers should have been published through Thomson Reuters (A journal for indexing and article database) and for Non-Referred Category, the UGC has published the list of journals which are recognized for calculating points for API scoring. It is further submitted that the Impact Factors for calculating points also vary according to the rating and standard of the journals and all the journals do not carry same points. It is submitted that as per Appendix III Table 1 to the UGC Regulation, 2010, the points are to be calculated for API Score as follows:-

Wherever relevant to any specific discipline, the API score for paper in refereed journal would be augmented as follows: (i) indexed journals - by 5 points; (ii) papers with impact factor between 1 and 2 by 10 points; (iii) papers with impact factor between 2 and 5 by 15 points; (iv) papers with impact factor between 5 and 10 by 25 points.

If a paper presented in Conference/Seminar is published in the form of Proceedings, the points would accrue for the publication (III (a)) and not under presentation (III (e) (ii))

Notes.

1. It is incumbent on the Coordination Committee proposed in these Regulations and the University to prepare and publicize within six months subject-wise lists of journals, periodicals and publishers under categories IIIA and B. Till such time, screening/selection committees will assess and verify the categorization and scores of publications.

2. The API for joint publications will have to be calculated in the following manner: Of the total score for the relevant category of



publication by the concerned teacher, the first/Principal author and the corresponding author/supervisor/mentor of the teacher would share equally 60% of the total points and the remaining 40% would be shared equally by all other authors.

13. It is submitted that all the research papers of the petitioner were published in the international/referred journal recognized under Thomson Reuters. It is further submitted that the petitioner has scored 369.5 point for publication in the journals and 135.0 for Fellowships, Award and Invited Lectures delivered in conference/seminars. The petitioner has totally scored 383.5 points.

14. It is also submitted that the fifth respondent has published only 50 research papers but had wrongly claimed 508.5 points. The international journals in which the fifth respondent has published research papers are neither Referred Journals nor in the list of journals published by the UGC for Non-Referred Journals and therefore, the fifth respondent cannot claim 508.5 points. It is further submitted that there was no evidence to prove the fellowship for which the 60 points (6 x 10) were given.

15. It is further submitted that if the API score was calculated based on the actual material available on record, the fifth respondent would have scored only 375.5 points ($884 - 508.5 = 375.5$) and if the medals and fellowships are not proved in accordance with UGC guidelines, the score would further go down from 375.5. It is also submitted that the total score of the petitioner after adding 64 marks in the interview would have been 647.5 ($583.5 + 64$) and the total score of the fifth respondent after adding 84 marks in the interview would have been only 459.5 ($375.5 + 84$). It is therefore prayed to be quashed the appointment of the fifth respondent with a direction to the respondents to appoint the petitioner as the Principal in the fourth respondent college.

16. The fifth respondent, in his additional counter affidavit, has stated that the UGC enlists the journals year to year, i.e. there would be inclusion of new journals and deletion of some from the existing list. It is submitted that the fifth respondent has submitted 56 research papers, in which, 33 papers had been published in peer reviewed International and National journals with UGC, Scopus, Thomas Reuters and Web of Science indices and also with impact factor, based on which, 398.5 API scores have been obtained by the fifth respondent. Out of the remaining 23 research papers, 17 were published till 2016 in peer reviewed national and international journals with impact



factor without indexing. It is also submitted that 6 research papers were published with ISSN numbers, i.e. four till 2016 and 2 after 2016, but, the fifth respondent has not claimed any API score for these papers.

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17. The fifth respondent has further stated that the petitioner has well known that the fifth respondent has received four Fellowship Awards from Zoological Society of India, Society of Animal Biotechnology and Society of Life Science and a Gold Medal from the Academy of Environmental Science and therefore, the appointment of the fifth respondent as the Principal in the fourth respondent college deserves to be confirmed.

18. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Government Advocate for the first, sixth and seventh respondents, the learned counsel for the second respondent, the learned counsel for the third and fourth respondents and the learned senior counsel for the fifth respondent and perused the documents filed by the petitioner and the third and fourth respondents.

19. A short point that arises for consideration in this Writ Petition is whether the appointment of the fifth respondent in the fourth respondent Government Aided Private College calls for an interference under Article 226 of the Constitution of India in the given facts and circumstances of the case?

20. In TMA Pai Foundation and Others Vs. State of Karnataka and Others, (2002) 8 SCC 481, the Hon'ble Supreme Court held as under:-

72. Once aid is granted to a private professional educational institution, the Government or the State agency, as a condition of the grant of aid, can put fetters on the freedom in the matter of administration and management of the institution. The State, which gives aid to an educational institution, can impose such conditions as are necessary for the proper maintenance of the high standards of education as the financial burden is shared by the State. The State would also be under an obligation to protect the interest of the teaching and non-teaching staff. In many States, there are various statutory provisions to regulate the functioning of such educational institutions where the States give, as a grant or aid, a substantial proportion of the revenue expenditure including salary, pay and allowances of teaching and non-teaching staff. It would be



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its responsibility to ensure that the teachers working in those institutions are governed by proper service conditions. The State, in the case of such aided institutions, has ample power to regulate the method of selection and appointment of teachers after prescribing requisite qualifications for the same. Ever since *In Re, Kerala Education Bill, 1957* [AIR 1958 SC 956 : 1959 SCR 995] this Court has upheld, in the case of aided institutions, those regulations that served the interests of students and teachers. Checks on the administration may be necessary in order to ensure that the administration is efficient and sound and will serve the academic needs of the institutions. In other words, rules and regulations that promote good administration and prevent maladministration can be formulated so as to promote the efficiency of teachers, discipline and fairness in administration and to preserve harmony among affiliated institutions. At the same time it has to be ensured that even an aided institution does not become a government-owned and controlled institution. Normally, the aid that is granted is relatable to the pay and allowances of the teaching staff. In addition, the management of the private aided institutions has to incur revenue and capital expenses. Such aided institutions cannot obtain that extent of autonomy in relation to management and administration as would be available to a private unaided institution, but at the same time, it cannot also be treated as an educational institution departmentally run by Government or as a wholly owned and controlled government institution and interfere with constitution of the governing bodies or thrusting the staff without reference to management.

73. There are a large number of educational institutions, like schools and non-professional colleges, which cannot operate without the support of aid from the State. Although these institutions may have been established by philanthropists or other public-spirited persons, it becomes necessary, in order to provide inexpensive education to the students, to seek aid from the State. In such cases, as those of the professional aided institutions referred to hereinabove, the Government would be



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entitled to make regulations relating to the terms and conditions of employment of the teaching and non-teaching staff whenever the aid for the posts is given by the State as well as admission procedures. Such rules and regulations can also provide for the reasons and the manner in which a teacher or any other member of the staff can be removed. In other words, the autonomy of a private aided institution would be less than that of an unaided institution.

21. Thus, the appointment of the fifth respondent as the "Principal" of the fourth respondent has to be in consonance of the Government Orders and Regulation as the fourth respondent is a Government Aided Private College even though run by a Charitable Trust. As a matter of fact, there are laws and rules which overlap each other.

22. In Tamil Nadu, Tamil Nadu Private College (Regulation) Act, 1976 has been enacted. The Tamil Nadu Private College (Regulation) Rules, 1976 has been framed under the said Act. Both Tamil Nadu Private College (Regulation) Act, 1976 and Tamil Nadu Private College (Regulation) Rules, 1976 do not contemplate recruitment of Principal in a Government Aided College by Direct Recruitment.

23. Rule 11(4) of the Tamil Nadu Private College (Regulation) Rules, 1976 deals with promotion of teaching staff. It does not contemplate direct recruitment of a principal. It only contemplates appointment of teachers and their promotion. As per Rule 11(4) of the Tamil Nadu Private College (Regulation) Rules, 1976, promotion shall be made only on the ground of merit and ability, seniority being considered only where merit and ability are approximately equal.

24. However, the UGC Regulations, 2010 framed under Section 26(e) of the University Grants Commission Act, 1956 on the other hand contemplates the appointment of Principal by "Direct Recruitment" in Clause 4.0.0. This was the procedure adopted in the appointment of the fifth respondent as the Principal in the fourth respondent college.

25. The College Committee of the fourth respondent College of which the petitioner was a member decided to appoint the "Principal" of the fourth respondent college by "Direct Recruitment". Three Associate Professors from the fourth respondent college gave their application. They are the petitioner, fifth respondent and Dr. Thiyagarajan. Dr.Thiyagarajan later withdrew due to ill-health.



26. The eighth respondent, the Registrar, University of Madras (Chennai) vide communication dated 18.05.2018 recommended the names of experts to be the members of the "Selection Committee" in the Direct recruitment of Principal of the fourth respondent College. Thus, a "Selection Committee" was appointed in terms of the Clause 5.1.6. of the UGC Regulations, 2010.

27. Following seven members were shortlisted as members of the "Selection Committee" for the interview to be held on 31.5.2018:-

1	Dr.P.Sudhakar	Chairman
2	Dr.G.Ravichandrababu	Member
3	Mr.M.Balaguruvappa	Member
4	Dr.M.Selvaraj	Member
5	Dr.S.Murugesan	Member
6	Dr.N.Mathivanan	Member
7	Dr.R.Thilgaraj	Member

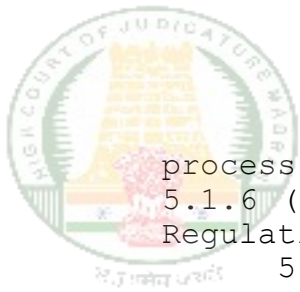
28. Persons at Sl.Nos.4, 5, 6 & 7 are the experts nominated as per of Clause 5.1.6. of the UGC Regulations, 2010. The interview for the post of principal by Direct Recruitment was in terms of Notification issued by the fourth respondent.

29. The interview was proposed to be held at 9.00 a.m. on 31.05.2018. However, the "Selection Committee" decided to postpone the interview to 02.06.2018 at 12.15 p.m. as it felt that API score awarded by the candidates needs to be reviewed by an External Experts. The "Selection Committee" decided to recommend the name of the fifth respondent to the post of the Principal of the fourth respondent college.

30. The challenge to the appointment of the fifth respondent is on account of the last mentioned criteria in Clause 4.2.0 of UGC Regulations, 2010. It is the specific case of the petitioner that the fifth respondent has not scored the marks as per Clause 4.2.0 (iv) of the aforesaid Regulations.

31. It is further submitted that the fifth respondent did not have the minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in the Regulation in Tables I to IX of Appendix III.

32. Though the constitution of the Selection Committee is in accordance with the UGC Regulations, 2010, the selection



process adopted by the Selection Committee is contrary to Clause 5.1.6 (c) of the UGC Regulations, 2010. Clause 5.1.6 of the UGC Regulations, 2010 reads as under:-

5.1.6. College Principal

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a) The Selection Committee for the post of College Principal shall have the following composition:

1. Chairperson of the Governing Body as Chairperson.
2. Two members of the Governing Body of the college to be nominated by the Chairperson of whom one shall be an expert in academic administration.
3. One nominee of the Vice Chancellor who shall be a Higher Education expert. In case of Colleges notified/declared as minority educational institutions, one nominee of the Chairperson of the College from out of a panel of five names, preferably from minority communities, recommended by the Vice-Chancellor of the affiliating university of whom one should be a subject expert.
4. Three experts consisting of the Principal of a college, a Professor and an accomplished educationist not below the rank of a Professor (to be nominated by the Governing Body of the college) out of a panel of six experts approved by the relevant statutory body of the university concerned.
5. An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories is the applicant, to be nominated by the Vice Chancellor, if any of the above members of the selection committee do not belong to that category.

b) At least five members, including two experts, should constitute the quorum.

c) All the selection procedures of the selection committee shall be completed on the day of the selection committee meeting itself, wherein, minutes are recorded along with the scoring proforma and recommendation made on the basis of merit with the list of selected and waitlisted candidates/Panel of names in order



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of merit, duly signed by all members of the selection committee.

- d) The term of appointment of the college principal shall be FIVE years with eligibility for reappointment for one more term only after a similar selection committee process.

33. This method adopted by the Selection Committee is contrary to Clause 5.1.6. of the UGC Regulations, 2010 as Clause 5.1.6.(c) of the Regulations clearly stipulates that the selection procedure shall be completed on the day of the Selection Committee Meeting and the minutes are recorded along with the scoring proforma and recommendation made on the basis of merit with the list of selected and waitlisted candidates/Panel of names in order of merit, duly signed by all the members of the Selection Committee.

34. The purpose of constituting a Selection Committee consisting of expert is to ensure that there is no arbitrary decision in favour of any person. UGC Regulation contemplates that result has to be arrived on the same date.

35. For a person to be appointed as a Principal of a Private College, a person should have the following qualification as per Clause 4.2.0 of the UGC Regulations, 2010:-

- i. A Master's Degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) by a recognized University.
- ii. A Ph.D. Degree in concerned/allied/relevant discipline(s) in the institution concerned with evidence of published work and research guidance.
- iii. Associate Professor/Professor with a total experience of fifteen years of teaching/research/administration in Universities, Colleges and other institutions of higher education.
- iv. A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Tables I to IX of Appendix III.

36. The appointment of a Principal in a Private College is to be based on the recommendation of the "Selection Committee".



The composition of the "Selection Committee" is prescribed under Clause 5.1.6 of the UGC Regulations, 2010.

37. Clause 6.0.0 of the UGC Regulations, 2010 further states that a selection procedure shall be transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightage is to be given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma, based on the Academic Performance Indicators (API) as provided in this Regulations in Tables I to IX of Appendix III.

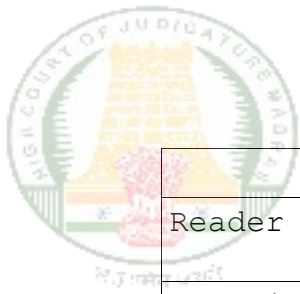
38. The very purpose of nominating experts in the Selection Committee is to ensure they are competent to assess the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) of candidates independently as set out in the Regulation in Tables I to IX of Appendix III.

39. The fact that Selection Committee decided to defer the interview to 2nd of June, 2018 to get the views of an External Expert shows that the experts of the so called Selection Committee did not have the expertise to assess the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) as set out in this Regulation in Tables I to IX of Appendix III which is apparently to be assessed based on objective criteria.

40. It is further noticed that the Selection Committee initially consisted of seven members including the outgoing Principal Dr.G.Ravichandra Babu. However, he was not present in the interview held on 2nd of June, 2018 as he had retired on 31.05.2018.

41. A reading of the documents filed shows teaching experience of the petitioner and the fifth respondent. They indicate that the petitioner has total of 27 Years of teaching experience, whereas, the fifth respondent has a teaching experience only 20 Years. The details of the teaching profession of both the petitioner and the fifth respondent are tabulated below for an easy comparison:-

Name of the Post	Petitioner		Fifth Respondent	
	Year	Total Period	Year	Total Period
Lecturer	1991-1998	7 Years	1998-2002	4 Years
Lecturer S.S.	1998-2001	3 Years	2002-2007	5 Years
Lecturer S.G	2001-2002	1 Year 4 Month	2007-2010	3 Years



	Petitioner		Fifth Respondent	
Reader	2002-2005	3 Year 6 Months	-	-
Associate Professor	2006 - till date of filing of W.P.	12 Years	2010 - till date of filing of W.P.	8 Years
		27 Years		20 Years
Additional Services				
HOD	2012 - till date of filing of W.P.	6 Years	2014 - till date of filing of W.P.	4 Year
Lecturer (Evening Clg.)	1991-2012	21 Years 3 Months	-	-
Lecturer (Evening Clg.)	2005-2007	2 Years	-	-

42. The Academic Qualifications of the petitioner and the fifth respondent also show that the petitioner was more qualified. Following comparison shows the qualification:-

	Petitioner		Fifth Respondent	
Degree	Name of the Institution	Year	Name of the Institution	Year
B.Sc.	Not disclosed	-	PSG College of Arts and Science, Coimbatore	1984
M.Sc.	Annamalai University	1989	Pachaiyappa's College, Chennai	1986
B.Ed.	Annamalai University	1990	-	-
M.Phil .	Loyola College, Chennai - 34	1995	-	-
Ph.D	Loyola College, Chennai - 34	2002	Pachaiyappa's College, Chennai	1991

43. Though the fifth respondent completed Ph.D. earlier in 1991, while, the petitioner completed Ph.D. in 2002, the



petitioner has more teaching experience than the fifth respondent. The fifth respondent has completed only U.G., P.G. and Ph.D and thereafter worked as a Research Fellow and a Project Research Officer with the Pachaiyappa's College, Chennai - 30 and Shri AMM Murugappa Chettiar Research Center, Taramani respectively for a period of two years and five years two months respectively. The petitioner appears to be even more qualified inasmuch as the petitioner has completed B.Ed. and M.Phil apart from the Post Graduation. These factors also should have been considered by the Selection Committee.

44. As there is a serious flaw in the manner in which the API score stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) as set out in the Regulation in Tables I to IX of Appendix III was assessed by referring to an External Expert, the impugned appointment of the fifth respondent is liable to be interfered.

45. The fact that the Selection Committee postponed the interview already fixed on 31.05.2018 to 02.06.2018 by referring to an External Expert shows that the appointment of the fifth respondent as the Principal in the fourth respondent college was irregular. It was perhaps to eliminate the petitioner who was incidentally appointed as the Principal in-charge of the fourth respondent college.

46. Since the Selection Committee was unable to assess the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), set out in this Regulation in Tables I to IX of Appendix III of the petitioner and the fifth respondent, the appointment of the fifth respondent based on the inputs of an external input is liable to be set aside.

47. If the experts in the Selection Committee knew how to assess the API score, the necessity to refer the evaluation of API score to an external expert would have neither arisen nor a decision to interview the candidates would have been deferred to 2nd of June, 2018. Thus, the selection process adopted by the Selection Committee consisting of four experts was contrary to UGC Regulations, 2010.

48. In view of the above discussion, the appointment of the fifth respondent as the Principal in the fourth respondent college is declared as irregular and contrary to the UGC Regulations, 2010. Therefore, the appointment made in the year 2018 is set aside.

49. Therefore, this Writ Petition stands allowed with the following directions / observations:-



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- i. The eighth respondent, Registrar of Madras University shall furnish names of new experts to the third and fourth respondents college to constitute a new Selection Committee, within a period of Thirty (30) days from the date of receipt of a copy of this order.
- ii. Meeting of the new Selection Committee shall be fixed by the fourth respondent preferably within a period of Fifteen (15) days thereafter after ascertaining convenience of the respective experts.
- iii. The fourth respondent shall also simultaneously intimate the date of the proposed interview to the petitioner and the fifth respondent before the Selection Committee.
- iv. Both the petitioner and the fifth respondent shall attend the interview before the Selection Committee on the date fixed for interview.
- v. The Selection Committee shall interview and evaluate the API Scores of the petitioner and the fifth respondent in accordance with the UGC Guidelines in force and give their recommendations on the same date of the meeting / interview.
- vi. The third/fourth respondent shall declare the results of the interview immediately based on the recommendation of the aforesaid Selection Committee.
- vii. In case, the name of the fifth respondent is recommended, the fifth respondent shall be allowed to complete the term of five years from the date of his initial appointment.
- viii. In case, the petitioner is found suitable based on the recommendation of the aforesaid Selection Committee, the petitioner shall be appointed as the Principal of the fourth respondent college for the term of 5 years or such other terms as per the UGC Guidelines and relevant Rules / Regulations.
- ix. It is made clear that the entire exercise shall be carried out by the eighth respondent and the fourth respondent, within a period of Fifty



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(50) days from the date of receipt of a copy of this order.

x. During the interregnum, the fifth respondent shall continue to be the Principal in-charge of the fourth respondent college till the above exercise is carried out and shall refrain from taking any important policy, administrative and financial decision of the fourth respondent college.

xi. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Secretary,
University Grants Commission,
New Delhi.
3. The Director of Collegiate Education,
DPI Campus,
E.V.K. Sampath Malligai,
College Road,
Chennai - 600 006.
4. The Joint Director of Collegiate Education,
Chennai Region,
Saidapet,
Chennai - 600 015.



5. The Vice Chancellor / Registrar,
Madras University, Chepauk,
Chennai - 600 005.

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+2ccs to M/s.A.Arul Mozhi, Advocate, S.R.No.58445

+1cc to M/s.R.Subramanian, Advocate, S.R.No.58449

+1cc to M/s.B.Ravi, Advocate, S.R.No.58448

Pre-Delivery Order
in
W.P.No.15246 of 2018
and
W.M.P.Nos.18074 of 2018
& 6417 of 2021

SR-II (CO)
SU (17/11/2021)