



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.10118 of 2021

and

W.M.P (MD) No.7842 of 2021

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Dr.Aranga.Pari

... Petitioner

-Vs-

1.The Chancellor

Tamil University,
Thanjavur-613 010.

2.The Vice Chancellor,

Tamil University,
Thanjavur-613 010.

3.The Registrar/Election Officer,

Tamil University,
Thanjavur-613 010.

4.Dr.P.Jayakumar,

Dean, Faculty of Manuscriptology,
Tamil University,
Thanjavur-613 010.

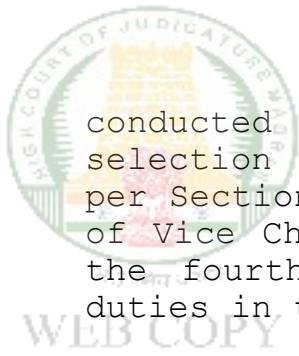
... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the third respondent from permitting the fourth respondent from casting his vote or participating in the syndicate meeting scheduled to be conducted on 16.06.2021 or on any other date for the purpose of selection of two members to represent the Five member committee as per Section 12 of the Tamil University Act, 1982 for the appointment of Vice Chancellor in the Tamil University and further restraining the fourth respondent exercising any administrative or financial duties in the Tamil University, Thanjavur.

For Petitioner	: Mr.G.Prabhu Rajadurai for Mr.R.Maheswaran
For R1	: Mr.Veera.Kathiravan Senior Standing Counsel for the State Government
For R2 & R3	: Mr.Isaac Mohanlal Senior Counsel for M/s.Isaac Chambers

ORDER

The present writ petition is filed to forbear the third respondent from permitting the fourth respondent from casting his vote or participating in the Syndicate meeting scheduled to be



conducted on 16.06.2021 or on any other date for the purpose of selection of two members to represent the Five member committee as per Section 12 of the Tamil University Act, 1982 for the appointment of Vice Chancellor in the Tamil University and further restraining the fourth respondent exercising any administrative or financial duties in the Tamil University, Thanjavur.

2. The petitioner is working as Professor in the Department of Tamil Studies and Research in Annamalai University. He is also a Syndicate member of Tamil University, Thanjavur, nominated by the Government. Tamil University was established at Thanjavur by the Government of Tamilnadu under the provision of Tamil University Act No.IX, 1982. Tamil University is governed by the provisions of the Tamil University Act, 1982. The tenure of the present Vice Chancellor of Tamil University is expiring and therefore, the University is in the process of appointing the new Vice Chancellor. For appointment of Vice Chancellor, Search Committee consisting of five members will recommend three names to the Chancellor. From and out of three names, the Chancellor will select and appoint one person as Vice Chancellor. Out of five members of Search Committee, one shall be nominated by the Chancellor, one nominated by the Government and one nominated by Senate and two shall be nominated by the Syndicate.

3. The Syndicate will elect two members to be nominated to the Search Committee. The third respondent is the Election Officer and he has published the Election date and Voters list. The petitioner received voters list on 08.06.2021. In the said list, the fourth respondent's name is included as one of the voters. The fourth respondent retired from service on attaining the age of superannuation on 23.03.2021 and he is re-employed as per the University Grants Commission Regulations. A re-employed person has no administrative and financial power and hence, he is not entitled for casting the vote in the election for selecting two persons to be nominated to the Search Committee. As per the Model Guidelines approved by the UGC, the fourth respondent is not entitled to cast the vote and not eligible to attend the Syndicate Meeting. On receiving the Syndicate members list on 08.06.2021, the petitioner gave representation to the third respondent. Since there was no reply, the petitioner has come out with the present writ petition.

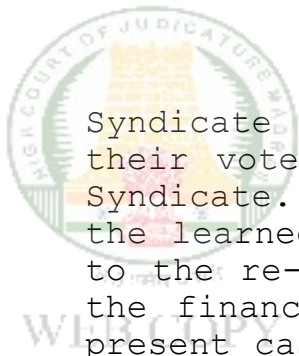
4. Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner submitted that the fourth respondent has attained the age of superannuation on 23.03.2021 and he was re-employed only to complete the Syllabus and for the benefit of students. As per the UGC guidelines, for re-employed employees no administrative power is given and referred the order of appointment of the fourth respondent as Dean, appointment of the fourth respondent as Syndicate member and the provisions of the University Act and prayed for allowing the writ petition.



5. The respondents 2 & 3 filed counter. Mr.Veera.Kathiravan, learned Senior Standing Counsel appearing for the first respondent and Mr.Isaac Mohanlal, learned Senior counsel appearing for the respondents 2 & 3 separately contended that the petitioner has not challenged the membership of the fourth respondent as Syndicate member. The writ petition is not maintainable against the statutory right of casting vote, as long as the fourth respondent continues as Dean, he will have the right of casting vote. The petitioner is only a voter and he cannot question the power of casting vote by another person.

6. Both the learned Senior Counsel appearing for the respondents 1 to 3 submitted that the fourth respondent attained the age of superannuation in the middle of the academic year i.e., on 23.03.2021 and he is permitted to continue in service till the end of the academic year. As per Chapter XXVI (ix) (2) of Service condition of the Establishment of the Tamil University, a member of academics, who attains the age of 60 years in the middle of the academic year, is permitted to continue in service till the end of the academic year and hence, by the proceedings of the second respondent, dated 10.03.2021, the fourth respondent was permitted to continue in service till the end of the academic year. The fourth respondent is continuing as a Professor and he is eligible to continue as Dean under Section 36(2) of the Tamil University Act, 1982. Therefore, he is also eligible to continue as Syndicate member as per proviso to Section 21(e)(ii) of the said Act. The fourth respondent is continuing as Professor and Dean and hence, there is no impediment for him to continue as member of the Syndicate. Hence, he is entitled to cast vote for nomination of two Syndicate members in the Search Committee and therefore, his name is included in the list of eligible voters.

7. Apprehending that the persons proposed by the petitioner may not get elected, the petitioner gave representation on 08.06.2021 to the third respondent disputing the eligibility of the fourth respondent to cast vote for electing Syndicate Nominee in the Search Committee. The petitioner's representation was considered by the University and the University gave a detailed reply on 14.06.2021, explaining him that the fourth respondent is continuing his service as Professor till the end of the academic year in terms of Chapter XXVI (ix) (2) of the Service Conditions of the Establishment of the Tamil University and hence, he is eligible to continue as Dean of the Department under Chapter XVIII (5) (a). The fourth respondent on attaining the age of 60 years on 23.03.2021, is continuing his service till the end of the academic year i.e., 30.06.2021. As per Chapter XXVI (ix) (2) of the Service Conditions of the Establishment of the Tamil University as long as he continues as Professor, he is eligible to continue as Dean and as long as he is continuing as Dean, he is entitled to continue as



Syndicate member. All the Syndicate members are eligible to cast their vote, including the fourth respondent, as he is a member of Syndicate. University Grants Commission Regulations referred to by the learned counsel appearing for the petitioner is applicable only to the re-employed persons, who were re-employed in order to avoid the financial burden or for want of suitable candidates. In the present case, the service of the fourth respondent is extended till the end of the academic year and the fourth respondent was not re-employed. As long as he continues as Dean, he is entitled to continue as Syndicate member and prayed for dismissal of the writ petition.

8. Heard the learned counsel appearing for the petitioner, the learned Senior Standing Counsel appearing for the first respondent and the learned Senior Counsel appearing for the respondents 2 & 3 and perused the materials available on record.

9. From the materials on record and rival submissions of the learned counsel for the petitioner and the learned Senior Standing Counsel appearing for the first respondent and the learned Senior Counsel appearing for the respondents 2 & 3, the following are undisputed facts:-

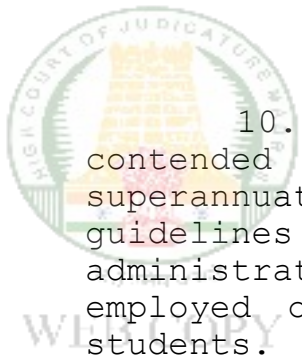
(I) The fourth respondent is working as Professor in Manuscriptology Department in Tamil University.

(ii) On 10.01.2019 the fourth respondent was appointed as Dean in the School of Manuscriptology for a period of three years or till he continue as Professor, whichever is earlier.

(iii) The Syndicate of the University is consisting of 14 members. Out of 14 members, three members are nominated from among the senior Deans of University by rotation. By proceedings, dated 01.07.2019, the fourth respondent was nominated as Syndicate member for a period of three years or till he continues as Dean, whichever is earlier.

(iv) the fourth respondent attained the age of 60 years on 23.03.2021 in the middle of the academic year. By the proceedings, dated 10.03.2021 the second respondent has extended the service of the fourth respondent, as Dean till the end of the academic year i.e., on 30.06.2021 as per Chapter XXVI (ix) (2) of the Service Conditions of the Establishment of the Tamil University.

(v) A Search Committee, consisting of five members, has to recommend three persons to the Chancellor and Chancellor will select one person from among the three persons to appoint as Vice Chancellor. Out of five members of the Search Committee, the Syndicate has to nominate two members from the Syndicate. If more than two members are in contest for being nominated to Search Committee, an election will be held and all the 14 Syndicate members are entitled to cast their vote to elect two members for Search Committee.



10. The learned counsel appearing for the petitioner contended that the fourth respondent attained the age of superannuation on 23.03.2021 and he was re-employed. As per the guidelines of UGC Regulations, re-employed person cannot have administrative and financial power. The fourth respondent re-employed only to complete the Syllabus and for the benefit of students. On the other hand, it is the case of the respondents 1 to 3 that on attaining the age of 60 years, the fourth respondent was permitted to continue in service till the end of the academic year as per Chapter XXVI (ix) (2) of the Service Conditions of the Establishment of the Tamil University and further submitted that the fourth respondent was not re-employed. He is continued as Dean till the end of the academic year.

11. In view of the fact that the fourth respondent is continuing as Dean of Manuscriptology Department, he is entitled to continue as member of Syndicate. As per Chapter XXVI (ix) (2) of the Service Conditions of the Establishment of the Tamil University as long as fourth respondent continues as Professor, he is eligible to continue as Dean and he is entitled to continue as Syndicate member. To substantiate the same, the respondents 2 & 3 have filed a proceedings of the second respondent, dated 10.03.2021, in the typed set of papers. A reading of the said proceedings of the second respondent, it is clear that the fourth respondent was permitted to continue till the end of the academic year i.e., on 30.06.2021 as Dean of the Department. The petitioner has not filed any document to show that the fourth respondent was re-employed after attaining the age of superannuation. No material is placed before this Court to disprove the case of the respondents 2 & 3 that the fourth respondent's service is extended till the end of the academic year and he was not re-employed. The petitioner has not denied the fact that the academic year will come to an end on 30th June of every year. Further, the petitioner has not produced any material to deny the proceedings of the second respondent, dated 10.03.2021. Once the respondents 2 & 3 proved that the fourth respondent was not re-employed and he continued in service till the end of the academic year, the case of the petitioner that the fourth respondent was re-employed and therefore, he cannot exercise any administrative and financial power, is without merits and the guidelines of UGC referred to by the learned counsel appearing for the petitioner, are not applicable to the case of the fourth respondent.

12. The respondents produced the proceedings of the second respondent, dated 01.07.2019 nominating the fourth respondent as Syndicate member. As per the said proceedings, the fourth respondent was nominated to the Syndicate for the period of three years or till he continues as Dean. As per the said proceedings, the fourth respondent is entitled to be a member of Syndicate as long as he continues as Dean of Manuscriptology Department. He is entitled to exercise the power of Syndicate member, including to



cast his vote in the election, for electing two members of Search Committee. As rightly pointed out by the learned Senior Counsels appearing for the respondents 1 to 3 that the petitioner has not challenged the continuation of fourth respondent as Dean or as Syndicate member, but the petitioner is challenging only to the right of the fourth respondent to cast his vote and therefore, the writ petition is not maintainable. The said contention has considerable force and is acceptable. Further, the petitioner failed to prove that the fourth respondent is re-employed and he is continuing as Dean only based on the order of re-employment. The respondents 2 & 3 proved that the fourth respondent is continuing his service as Dean by extension of service till the end of the academic year.

13. For the above reasons, the writ petition fails and it is liable to be dismissed as devoid of merits.

14. In the result, the writ petition is dismissed. Both the learned Senior Counsel submitted that when the writ petition was taken up for hearing on 16.06.2021, election was in progress and as per the direction of this Court, result is not published, the ballot box was not opened and kept in the safe custody. It is open to the third respondent to publish the result of election for electing two members to Search Committee from Syndicate members. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chancellor
Tamil University,
Thanjavur-613 010.

2.The Vice Chancellor,
Tamil University,
Thanjavur-613 010.



3.The Registrar/Election Officer,
Tamil University,
Thanjavur-613 010.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-19880[F] dated 22/06/2021)

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+1 CC to M/s.R.MAHESHWARAN, Advocate (SR-19873[F] dated 22/06/2021)

+1 CC to M/s.SPL GP (SR-20052[F] dated 23/06/2021)

W.P. (MD) Nos.10118 of 2021
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KB(30.06.2021) 7P 6C