

08.02.2022
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Sl. No. 10
Ct. No. 05

WPA 5325 of 2021
[Via Video Conference]

Dr. Sanatan Das
-Versus-
The University of Gour Banga & Ors.

Mr. Kallol Basu	
Mr. Suman Banerjee	 for the petitioner
Mr. Swapan Kr. Dutta	
Mr. Dipankar Das Gupta	... for the State
Mr. Amitava Chaudhuri	
Mrs. M. Choushuri	
Mr. N. Roy	... for the University

A preliminary point of objection has been raised in respect of the maintainability of the writ petition by learned counsel appearing for the University and the State. The Court has been invited to address the preliminary objection.

According to learned counsel appearing for the respondents, the writ petition does not disclose a cause of action and is premature .

Learned counsel appearing for the petitioner opposes the argument by relying on a decision of the Supreme Court in *Adi Saiva Sivachariyargal Nala Sangam & Ors vs. Government of Tamil Nadu & Anr.* reported in (2016) 2 SCC 725 and also on the affidavit-in-opposition of the University in which it is stated

that the University is duty bound to comply with the directions passed by the State Government.

The writ petitioner prays for a direction on the respondents to cancel and set aside an enquiry report of the Enquiry Committee and its recommendations against the petitioner. The Report of the Enquiry Committee, consisting of four members contains the facts which are briefly stated. The Enquiry Committee was set up pursuant to an order of the Higher Education Department dated 7th December, 2020 for conducting enquiry on the allegations levelled against the University Administration and officials of the University. The Report deals with the irregular formation of the Executive Council of the University, corruptions and malpractices in installation of infrastructure as well as in the evaluation system of examinations. The Report specifically deals with the suspension of the petitioner before this Court, who is a professor of Mathematics and was in additional charge of the office of Controller of Examinations in the University. The Report concludes in the form of recommendations made to the University including that the petitioner be immediately placed under suspension and appropriate disciplinary

proceedings started against the petitioner. The Committee further recommends that if the petitioner is found guilty after enquiry, the petitioner should not be given the charge of the office of the Controller of Examination and the University shall take immediate steps for filling up the said post.

Admittedly, the University has not taken any steps pursuant to the Report of the Enquiry Committee which is signed by the members on 24th December, 2020. It is also the stated position of the University as well as the State that the enquiry itself has not commenced since charges have not been framed against the petitioner. Since these facts are undisputed, this Court accepts the contentions made on behalf of the respondents that the writ petition, in its present form, does not disclose any cause of action requiring intervention of the Writ Court, at least at this stage. The apprehension of the petitioner arising from the statement made in the affidavit-in-opposition of the University that the University is duty bound to comply with the direction of the State Government and the recommendations contained in the Enquiry Report does not amount to any prospect of a real injury warranting orders against the

recommendations of the Report of the Enquiry Committee. Once the enquiry is undertaken and comes to a definite conclusion, the petitioner may exercise his rights if and when the enquiry fructifies into a decision.

The present stage is premature as no steps have been taken pursuant to the recommendations against the petitioner.

The observation of the Supreme Court in *Adi Saiva Sivachariyargal* (supra) must be distinguished in light of the facts of the present case. The said case dealt with appointment to a public office where the petitioner would have lost a valuable right and suffer irrevocable prejudice if the petitioners were not heard in the matter of appointment. There is a natural distinction between denial of relief where the effect of such denial would be irreversible. Disciplinary proceedings, on the other hand, can only fructify into an actionable cause after a decision is taken against the person. No steps have been taken by the respondents from 24th December, 2020 till present which would amount to an irreversible turn on the petitioner's fate. The present case falls in the second bracket and the Court is hence not

convinced that the petitioner can urge any case for relief at this stage.

WPA 5325 of 2021 is accordingly dismissed. There shall be no order as to costs.

(Moushumi Bhattacharya, J.)