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W.P.No.25078 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 20.02.2023

Orders delivered on 10.03.2023

CORAM :

THE HON'BLE Mrs.Justice **J.NISHA BANU**

W.P.No.25078 of 2015

S.Anuradha

..Petitioner

Vs

1. University of Madras
represented by its Registrar,
Chepauk, Chennai - 600 005.

2. The Vice-Chancellor,
University of Madras,
Chepauk, Chennai - 600 005.

3. Dr.K.Dayanidhi,
Assistant Professor,
Department of Vaishanavisam,
University of Madras,
Chepauk, Chennai - 600 005.

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

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a



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Writ of Quo Warranto to direct the 3rd respondent to show cause by what authority he claims to have use, enjoy and perform the rights, duties, privileges of the office of the Assistant Professor in the Department of Vaishnavism in the 1st respondent University and consequently remove him from that post.

For Petitioner	: Mr.D.Rajagopal
For Respondents	: Mr. A.S.Vijayaragavan for R1 & R2 Mr.K.S.Govindaprasad for R3 Mr.P.R.Gopinathan for R4

ORDER

This Writ Petition has been filed to issue a Writ of Quo Warranto to direct the 3rd respondent to show cause by what authority he claims to have use, enjoy and perform the rights, duties, privileges of the office of the Assistant Professor in the Department of Vaishnavism in the 1st respondent University and consequently, remove him from that post.

2. The case of the petitioner is that the first respondent University issued a notification on 15.12.2013 inviting applications from eligible candidates for the post of Assistant Professor in various Departments



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including the Vaishnavism Department. The third respondent was appointed as Assistant Professor in the Department of Vaishnavism on 15.09.2014 and he joined duty on 16.09.2014. The educational qualification of the third respondent is M.A. in Sanskrit, M.Phil., in Vishishta Vaida Vedanta and Ph.D. also in the same subject. Therefore, it is clear that he is not qualified to be appointed as Assistant Professor in Vaishnavism because his M.A. degree is not the subject, Vaishnavism, but Sanskrit. As per UGC Regulations, 2010 and as per Regulation 4.4.0 for appointment to the post of Assistant Professor, the candidate should have good academic record with atleast 55% marks at the Master's degree level in the relevant subject. As the 3rd respondent does not have the qualifications to be appointed as Assistant Professor in Vaishnavism, the appointment of the 3rd respondent is violative of the above said UGC Regulation. Hence, this writ petition with the aforesaid relief.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. Learned counsel for the petitioner would submit that the 3rd



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respondent who was appointed as the Assistant Professor in Vaishnavism Department in Madras University has not qualified himself as required by the norms and regulations of University Grants Commission(UGC). He would further submit that as seen from the application submitted by the 3rd respondent in column 8 relating to academic qualification, it is clear that the 3rd respondent has obtained M.A. Degree in Sanskrit and the 3rd respondent has not obtained M.A.Degree in Vaishnavism. On this ground, the appointment of the 3rd respondent as Assistant Professor in Vaishnavism Department in Madras University is contrary to the mandatory norms and regulations prescribed by the 4th respondent/UGC. The 3rd respondent has not qualified himself as per the norms and regulations as prescribed by UGC viz., 10+2+3. The 3rd respondent had obtained certificate in Prak Sironmani in 2001 in Sanskrit which is not equivalent to 10th standard. As seen from the Madras Sanskrit College Admission Certificate of the year 2016-1017, Praksironmani is described only as foundational course, for which, X standard is the basic qualification. Similarly, the 3rd respondent had obtained a Degree in Vyakrnasironmoni (Grammer) which is also in Sanskrit



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subject. When the petitioner sought certain information from the University of Madras, the reply sent by the University of Madras dated 03.02.2016 relating to equivalent of Prak Sironmani and Vyakarana Sironmani, is that there is no equivalent for the same and they are only foundational course. The petitioner sought the relevant mark sheets and certificates produced by the 3rd respondent, for which, the petitioner received reply from the Madras Sanskrit College on 23.01.2016 and as well as from the University of Madras on 21.12.2015, that the mark sheets and certificates were not available. Therefore, it is clear that the 3rd respondent was not qualified as to the mandatory requirement prescribed by the 4th respondent/ UGC, which norms and regulations are to be followed by the University of Madras while appointing Assistant Professor. The 3rd respondent in his application in Column 14 has mentioned N/A in respect of publication and proof of articles Regional, National and International and books. However, the mark sheets of the candidates who attended the interview on 10.05.2014, which the petitioner was able to obtain under the Right to Information Act, would show that 10 marks to the 3rd respondent towards research publication,



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national, international book and award was inserted. Similarly, total mark awarded to the 3rd respondent was also altered from 59 to 69 to show that the 3rd respondent had secured maximum marks. Thus, it would go to show that the appointment of the 3rd respondent is legally unsustainable.

5. Learned counsel for the petitioner would further submit that at the relevant time, there were complaints against the 3rd respondent and an enquiry headed by Mr.Ramanujam, Retired I.G. of Police, was conducted who went into the merits and demerits of the complaints and in that enquiry, the then Head of the Department of Vaishnavism, Dr.M..Venkatakrishnan gave a statement which are relevant for the purpose of this case. The report of the One Man Commission was not placed before the Syndicate for approval and the same has also not seen the light of the day, especially, when 4 of the Syndicate members dissented with the appointment of 3rd respondent. Further, even for students who opt for joining M.A.Degree course in Vaishnavism, such students should have a Bachelor Degree in Vaishnavism as per the notification issued by the University of Madras. When such mandatory requirement is prescribed for students, it will also



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apply to the teachers who teach such students. The 3rd respondent had obtained M.A.Degree in Sanskrit and not obtained M.A. Degree in Vaishnavism and he was been asked to teach the students of M.A.Degree classes in Vaishnavism.

6. Learned counsel for the petitioner would further submit that the 1st and 2nd respondents have stated that the then Head of the Department of Vaishnavism, Dr.M.A.Venkatakrisnan had also concurred with the eligibility of the 3rd respondent but this statement is objected in view of the contrary statement made by Dr.M.A.Venkatakrisnan before the One Man Commission.

7. In support of the above contentions, the learned counsel for the petitioner relied on the following judgments.

i) AIR 1973 SC 1138 (Mri Ghulam Hussan & ors v. Union of India & Ors.)

ii) AIR 1965 SC 491 (University of Mysore v. C.D.Govinda Rao & another)

iii) 2009(8) SCC 273 (Mahesh Chandra Gupta v. Union of India)



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iv) Unreported judgment in W.A.No.179 of 2004 dt.08.10.2009
(A.P.John Paulraj vs. Vice Chanellor, University of Madras & another)

8. On the contrary, the learned counsel for the respondents 1 and 2 would submit that the 3rd respondent is a Ph.D. degree holder and hence, there is no necessity to pass NET or similar accredited test like SLET/SET. Thus, as per UGC Regulations, 2009 he is exempted from passing or clearing NET or similar accredited test like SLET/SET and the appointment of the 3rd respondent as Assistant Professor is not contrary to the UGC Regulations. In the notification issued by the first respondent inviting applications for the post of Assistant Professor in the department of Vaishnavism, as per UGC regulations 2010, no specialization is prescribed , except a Masters Degree level in a 'relevant' subject from an Indian University or an equivalent degree from an accredited foreign University. Seven eligible candidates were called for interview on 10.05.2014 and they attended the interview including the 3rd respondent. Since the 3rd respondent fulfilled the eligibility conditions as per the UGC guidelines, he was appointed. No procedural violations as prescribed in Statute 7 , Chapter



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IX of the University calendar Volume I, had been proved. The Head/Chairperson of the Department/School excused himself since his wife was an applicant to that post and his non-participation cannot therefore, vitiate the selection. The Syndicate in its meeting held on 15.09.2014, has approved the selection committee's minutes. Accordingly, appointment order was issued to the selected candidate Dr.K.Dayanidhi. As such, there is no statutory violation in the selection process made by the University of Madras for the post of Assistant Professor in the Department of Vaishnavism and it is in accordance with the UGC's regulations and the selection was made as per the norms prescribed by the UGC for appointment of Assistant Professor under direct recruitment.

9. Learned counsel would further submit that the Chairperson for the School of Philosophy and Religious Thought and the Professor and Head, Department of Philosophy has certified that Dr.K.Dayanidhi handles the subjects viz., Hymns of Periyalwar, Sanskrit Stotras in Vaishnavism, Introduction to Visishtadvaita Philosophy, Hymns of Tirumangai Alvar, Basic Concepts of Visishtadvaita, Hymns of Nammalvar, Doctrines of



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Visishtadvaita-I, Doctrines of Visishtadvaita-II and Rahasya Grantha of Vedanta Desika in the department of Vaishnavism, which are essential in teaching Vaishnavism. Moreover, Dr.M.A.Venkatakrisshnan who retired as Professor and Head of the Department of Vaishnavism and who worked for a period of more than 28 years service is also qualified with M.A./M.Phil./Ph.D. in Sanskrit and he retired on 31.10.2014. During his tenure, he never objected to the appointment of 3rd respondent or raised any issues regarding his eligibility. The 3rd respondent was selected by the Selection Committee purely on merit basis on his academic achievements, teaching experience and his performance in the interview. There is no statutory violation in the selection process made by the University of Madras for the post of Assistant Professor in the Department of Vaishnavism. Hence, the writ petition is devoid of merits and the same is liable to be dismissed.

10. Learned counsel appearing for the 3rd respondent would submit that the petitioner has not made out a case for issuance of Writ of Quo Warranto. He would submit that only after considering the candidature of the 3rd respondent and after satisfying with his credentials, the respondent



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University Syndicate had selected and appointment the 3rd respondent to the post of Assistant Professor in the Department of Vaishnavism. The petitioner neither participated in the selection process nor she is an unsuccessful candidate and not the person aggrieved as per the dictum and law laid down by the Hon'ble Apex Court which is one of the main and essential criteria to be satisfied for the issuance of Writ of Quo Warranto. Therefore, on this ground the averments made by the petitioner is liable to be rejected as non-est in the eye of law.

11. Learned counsel appearing for the 4th respondent/University Grants Commission would submit that the University of Madras arrayed as first respondent comes under Section 2(f), meaning a University established by a State Act and also under Section 12(b), meaning a University established by an Act of State legislature, eligible and receiving grants from this respondent, University Grants Commission, New Delhi, which is mandated in law to regulate and monitor the co-ordination and determination of standards in University, is duty bound to strictly adhere to the Act, Regulations and other Notifications issued by this respondent from



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time to time both in its letter and spirit, in the minimum qualifications and in the Constitution of Selection Committee.

12. This Court, considered the submissions made on either side and perused the materials available on record.

13. The petitioner has challenged the appointment of the 3rd respondent as Assistant Professor in the Department of Vaishnavism in the 1st respondent University. The petitioner has prayed for issue of Writ of Quo Warranto. In order to enable this Court to issue a Writ of Quo Warranto, the petitioner has to satisfy that she is having atleast remote connection to the appointment of the 3rd respondent which is being challenged and even if the connection is remote, the link must exist. A perusal of the affidavit would reveal that the petitioner is a student studying in M.A., Vaishnavism in the University of Madras. The petitioner is not a candidate who had applied for the post of Assistant Professor or took part in the selection process initiated by the respondent University for the post of Assistant Professor. Therefore, the petitioner is not at all aggrieved by the selection and appointment of the 3rd respondent herein.



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14. The respondent/ University of Madras issued notification dated 15.12.2013 inviting applications for the post of Assistant Professor in the Department of Vaishnavism and one post was to be filled under the General Category (GT). Though the notification is silent with regard to the specialization in the relevant subject in M.A.Degree in Vaishnavism, the prescription of the essential qualification is in the domain of the selection authority in the process of selection. The petitioner, who did not participate in the said selection process and who did not apply for the post of Assistant Professor as per the said notification, has no locus standi to comment the selection process.

15. At the time of applying for the post of Assistant Professor, the 3rd respondent was possessing the requisite qualification viz., (i) M.A.Degree in Sanskrit, (ii) M.Phil degree in Vishisdavaitha Vedanta, in which, one of the subjects is Vaishnavism, (iii) Ph.D. (Vishishdavaitha Vedanta), in which, one of the subjects is Vaishnavism. Moreover, a perusal of the notification dated 15.12.2013 would show that the respondent University had incorporated all the relevant details in the said Notification. The petitioner had not prayed for



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quashing of the said notification dated 15.12.2013.

16. The 3rd respondent was selected by the respondent University Syndicate only after considering his candidature and only after satisfying with his credentials, he was appointed and also joined duty on 15.09.2014 itself. The petitioner, has neither participated in the selection process nor an unsuccessful candidate in the selection process. Thus, she is not the person aggrieved as per the dictum and law laid down by the Hon'ble Supreme Court in the case of Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra (2013(4) SCC 465. Person aggrieved must be one whose right or interest has been adversely affected or jeopardised. The existence of a legal right is a condition precedent for invoking writ jurisdiction. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others. Thus, it would go to show that this writ petition has been filed with ulterior motive as the petitioner has no locus standi to challenge the appointment of the 3rd respondent.

17. In the counter affidavit filed by the 1st & 2nd respondent/ University of Madras, it has been clearly stated that in response to the



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advertisement, 7 applications were received for the post of Assistant Professor in the category, General Turn - One post. All the applications were scrutinized by the Scrutiny Committee. All the 7 candidates attended the interview and the 3rd respondent was selected and the Syndicate at its meeting held on 15.09.2014 has approved the selection committee minutes. Accordingly, the appointment order was issued to the 3rd respondent and he joined duty as Assistant Professor in the Department of Vaishnavism. It is also stated that there is no statutory violation in the selection process made by the University of Madras for the post of Assistant Professor in the Department Vaishnavism and it is in accordance with UGC's regulations and the selection was made as per the norms prescribed by the UGC for appointment of Assistant Professor under direct recruitment. The 3rd respondent has fulfilled the eligible qualifications prescribed by the UGC guidelines for the post of Assistant Professor and he has first class in M.A. Sanskrit with Ph.D. in Visistadvaita Vedanta.

18. It is settled law that a Writ of Quo Warranto does not lie if the alleged violation is not of a statutory nature. It is pertinent to point out here



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that Dr.M.A.Venkatakrishnan who retired as Professor and Head of the Department of Vaishnavism for more than 28 years and who is also qualified with M.A./M..Phil.Ph.D. in Sanskrit and who retired on 31.10.2014 concurred with the eligibility of the 3rd respondent. It is also stated by the 1st and 2nd respondents that the 3rd respondent was selected by the selection Committee purely on merits, based on his academic achievements, teaching experience and his performance in the interview. There is no statutory violation in the selection process made by the University of Madras as alleged by the petitioner. Therefore, the contention of the petitioner that the appointment of the 3rd respondent as Assistant Professor and that his appointment is contrary to Regulation 4.4.1 of the UGC Regulations, 2010, is not legally sustainable.

19. For the reasons stated above, this Court finds no illegality or infirmity in the selection process and in the appointment of the 3rd respondent made by the respondent University. Therefore, the writ petition fails and the same is liable to be dismissed. Accordingly, the Writ Petition stands dismissed. No costs.



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Index :Yes/No
Speaking/Non-speaking order
vsi

To

1. University of Madras
represented by its Registrar,
Chepauk, Chennai - 600 005.
2. The Vice-Chancellor,
University of Madras,
Chepauk, Chennai - 600 005.
3. University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

J.NISHA BANU, J.



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Pre-delivery order in
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10.03.2023