



WP.No.9016/2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 30.07.2021

Delivered on 03.02.2023

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

WP.No.9016/2021

& WMP.Nos.9552, 9556 & 9557/2021

[Video Conferencing]

Dr.R.Rajasekaran

..

Petitioner

Versus

1.The State of Tamil Nadu
rep.by its Secretary
Department of Higher Education
Secretariat, Fort St George
Chennai 600 009.

2.The Vice Chancellor
Bharathiar University
Coimbatore 641 046.

3.The Registrar,
Bharathiar University
Coimbatore 641 046.



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4.The Director of Collegiate Education
9th Floor, EVK Sampath Buildings
College Road, Chennai 600 006.

5.The Secretary
The University Grants Commission [UGC]
Bahadurshah Zafar Marg
New Delhi 110 002.

6.The Managing Trustee
President College Committee
PSG College of Arts and Science
Coimbatore 641 004.

7.The Secretary
PSG College of Arts and Science
Coimbatore 641 014.

8.Mrs.D.Brindha
Principal, PSG College of Arts and Science
Coimbatore 641 014.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records pertaining to impugned order dated 10.05.2018 of the 6th respondent, quash the same and consequently, direct the respondents to conduct the selection process by strictly adhering to the University Grants Commission Regulations, 2010 under the supervision of an Interim Administrator as appointed by this Court.



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For Petitioner	: Mr.D.R.Arun Kumar
For RR 1 & 4	: Mr.Karthikai Balan Government Advocate
For RR 2 & 3	: Mr.L.P.Shanmugasundaram Special Government Pleader
For R5	: No Appearance
For RR 6 to 8	: Mr.G.Masilamani Senior counsel assisted by Mr.R.Karthikeyan

ORDER

(1)The writ petition is filed for issuance of a writ of certiorarified mandamus to quash the impugned order dated 10.05.2018 passed by the 6th respondent and to direct the respondents to conduct the selection process by strictly adhering to the University Grants Commission Regulations, 2010 under the supervision of an Interim Administrator to be appointed by this Court.

(2)Brief facts that are necessary for the disposal of this writ petition are as follows.

(3)In the affidavit filed in support of the writ petition, it is stated by the petitioner that he is working as the Associate Professor in the Department of Commerce, PSG College of Arts and Science, namely,



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the 7th respondent herein. The 7th respondent/College originally invited applications from eligible persons from the College for the post of Principal. The petitioner also applied for the said post on 24.02.2017. The 7th respondent/College sent a Call Letter dated 31.03.2017 to the petitioner for interview. Though the petitioner appeared before the Selection Committee on 10.04.2017, later he came to know that the 6th respondent issued a fresh Notification on 06.12.2017 calling for applications from the eligible candidates to apply for the post of Principal within fifteen working days.

(4) It is stated by the petitioner that the fresh Notification was issued by the 6th respondent who is not the competent authority and the said Notification was issued without disclosing the fate of the selection process pursuant to the earlier Notification dated 24.02.2017. It is the case of the petitioner that he is an eligible and meritorious candidate for the post of Principal and that he was not selected only for the reason that he belongs to Scheduled Caste Community. It is contended that the 7th respondent/College would always prefer to select a person for the post of Principal only from the Community of the Managing



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Trustee. The petitioner pointed out that his Association Members brought to his notice that the 8th respondent who has now been appointed as the Principal of the 7th respondent/College, is not a deserving candidate and that the peaceful protest conducted by the Association members to remove the 8th respondent from the post of Principal and to conduct a selection process afresh by following due process of law, was dealt with by harassing them and by threatening them with dire consequences.

(5)The petitioner has given a few instances where the Management of the 7th respondent/College out of vengeance, has initiated disciplinary proceedings against some of the staff including the petitioner herein. It is stated that the petitioner was denied his legitimate right and one Dr.M.Jayanthi, who is also an ex-student of the petitioner herein and who is also an Associate Professor and 10 years junior to the petitioner herein, was appointed as the Head of Department [i/c] of Commerce.

(6)The petitioner filed a writ petition earlier before this Court in WP.No.34906/2019 challenging the illegal appointment of Dr.M.Jayanthi as the Head of Department and obtained an interim



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order from this Court to protect his interest. He also filed another writ petition in WP.No.34908/2019 for issuance of a writ of mandamus to direct the respondents therein to complete disciplinary proceedings initiated against the petitioner in a time bound manner. The said writ petition was disposed of by this Court on 18.12.2019 with a direction to the respondents to complete the process within eight weeks. It is admitted by the petitioner that by order dated 16.03.2021, the petitioner was imposed with a punishment of stoppage of two increments with cumulative effect. The petitioner also states that the order of punishment would be challenged by him in due course of time.

(7)In the affidavit, the petitioner also refers to another writ petition filed by a student by name G.Vanilan in WP.No.18106/2020 for denying admission for M.Sc [Chme] by the 8th respondent. A Few other allegations were made against the irregularity in the admission by making specific remarks that meritorious students are forced to opt management quota and compelled to pay huge money by way of capitation fee. Further allegations were made by the petitioner



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complaining about the 8th respondent as Principal for suspending the petitioner's colleague by name Dr.R.Nagarajan and made him to step down from his service as HOD of Economics Department on 01.07.2019. General allegations were also made against the 7th respondent/College that respondents 6 to 9 are trying to curb the petitioner and others with iron hands from agitating against their genuine grievance.

(8)In the grounds raised in the writ petition as regards the appointment of the 8th respondent as Principal, the petitioner has pointed out only two irregularities. The first irregularity is that on the competency of the 6th respondent to issue the Notification dated 06.12.2017 calling for applications from the eligible candidates to apply for the post of Principal. The second irregularity pointed out by the petitioner is that the entire selection process right from the issuance of Notification to the order of appointment is against the Rules and Regulations of the University Grants Commission Regulations 2010 and the Tamil Nadu Private Colleges [Regulation] Rules, 1976.



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(9)The petitioner also contended that the selection process initiated by the 7th respondent/College without even disclosing the fate of the selection process pursuant to the earlier Notification is wrong. Regarding the process of selection, the petitioner submitted that the constitution of the Selection Committee without the presence of the nominee of the Vice Chancellor of the Bharathiyar University.in the said Selection Committee, is illegal. The petitioner also contended that selection process was not transparent and there was no publication with regard to the allocation of marks to the candidates participated in the selection process. Referring to the object of the UGC Regulations, it is contended that the selection procedure should incorporate a transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidates in different relevant dimensions and the performance of each candidate should be reflected from a scoring system based on Academic Performance Indicators [API] as provided in the Regulations. Since the selection process was not in adherence to the UGC Regulations particularly



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Regulation 6, it is stated that the selection of the 8th respondent by the impugned order is illegal.

(10) Along with the writ petition, the petitioner also filed Miscellaneous Petitions for appointment of an interim Administrator to take over the affairs of the Management of the 7th respondent/College pending disposal of the writ petition and also for interim stay of the impugned order dated 10.05.2018 appointing the 8th respondent as Principal of the 7th respondent/College.

(11) The writ petition was seriously contested by the Secretary of the 7th respondent/College by filing a detailed counter affidavit. The 7th respondent/College raised preliminary objection regarding the maintainability of the writ petition on the ground that the writ petition is only to wreck vengeance against the 7th respondent/College Administration for having taken disciplinary action against the writ petitioner who has indulged in malpractice as NCC Officer of the 7th respondent/College. It is also stated that the petitioner has no locus standi to question the appointment of the 8th respondent as Principal of the 7th respondent/College as he is not a person who applied for the



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said post by participating in the process of selection. The impugned order appointing 8th respondent as Principal of the 7th respondent/College is dated 10.05.2018 and the 8th respondent was functioning as Principal with effect from the next date. It was pointed out that the writ petition was filed on 31.03.2021 nearly three years after the order of appointment. Hence, the 7th respondent/College contended that the writ petition is liable to be dismissed on the ground of delay and laches.

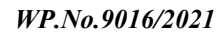
(12) Referring to the fact that the 7th respondent/College is a reputed Institution established in the year 1947 by the Trust known as 'PSG Sons and Charities and the academic ventures of the Institution, the 7th respondent/College submitted that the present writ petition is filed out of ill-motive, immediately after the punishment was imposed pursuant to the disciplinary proceedings initiated against the petitioner by the 7th respondent/College. Referring to the fact that more than 524 faculty members belonging to various communities are engaged by the 7th respondent/College, the allegation of casteism was specifically denied by the 7th respondent/College.



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(13) On the merits of the allegations regarding the selection process, the Management of the 7th respondent/College has given the dates and events with full particulars. In the counter affidavit filed by the 7th respondent/College, all the allegations are specifically denied. Apart from the objections as regards maintainability of the writ petition, the counter affidavit contains every details of the selection process. Therefore, it is the definite case of the 7th respondent/College that the selection process of the 8th respondent as Principal of the 7th respondent/College is by following UGC Regulations, 2010 and the provisions of the Tamil Nadu Private Colleges [Regulation] Rules, 1976. It is pointed out in the counter affidavit that the original selection process pursuant to the previous notification though came up to the stage of conducting interview by the Selection Committee, it is the specific stand of the 7th respondent/College that the Report of the Selection Committee was accepted by the College Committee and it was decided to go for fresh selection as none of the candidates who had applied for the post, was found suitable. It was also pointed out by the 7th respondent/College that the petitioner obtained the second



(14) Thereafter, a fresh Notification was issued and the Selection Committee which was constituted as per UGC Regulations after careful consideration on merits and abilities of all the applicants, selected three candidates including the 8th respondent who was ranked No.1. It is stated that the College committee, in its Meeting held on 27.03.2018, after considering the proceedings of the Selection Committee and the process of evaluation, resolved to appoint 8th respondent who was employed as Associate Professor and HOD of Bio-Chemistry. Therefore, it is contended by the 7th respondent/College that the 8th respondent was appointed following the legitimate procedure in full compliance with the Regulations of the UGC and the Tamil Nadu Private Colleges [Regulations] Rules, 1976.

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who applied for admission in M.Sc. [Chem], this Court found relevant materials in the counter affidavit to point out that such he allegations only based on mere pendency of writ petitions cannot be relied upon as the decisions of College on merits have to be examined by this Court in the appropriate writ petition. The individual grievance of staffs of the Institution with 500 and odd faculty members cannot be taken seriously especially when the writ petitions are pending before this Court and the veracity of such allegations need not be gone into in this proceedings where the issue is entirely different. The petitioner has admitted filing of two writ petitions earlier. The first writ petition was against denial of HOD post to the petitioner and therefore, he has challenged the appointment of another person as HOD in the Commerce Department. The petitioner himself has admitted filing of earlier writ petition for early conclusion of disciplinary proceedings initiated against him. The petitioner though filed another writ petition challenging the order of punishment on 31.03.2021, has failed to mention the nature of punishment. The charge against the petitioner is that the petitioner issued certificates of exemption of attendance for



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NCC students for both the aided and unaided courses. From the nature of allegation against the petitioner, it is seen that the petitioner has helped some students who are not eligible to avail exemption from attendance to take part in the examination and write their semester examination. It is also revealed by the Management that the petitioner was found guilty of charges and a punishment of stoppage of increment for a period of two years with cumulative effect was also imposed on him. It is now demonstrated before this Court that the petitioner, after coming to know about the punishment imposed on him for the serious misconduct, filed the present writ petition challenging the order of appointment of the 8th respondent dated 10.05.2018, nearly three years after the appointment.

(16) From the specific details furnished by the 7th respondent/College in the counter affidavit, this Court therefore, cautiously considered the averments in the affidavit filed in support of the writ petition, arguments made by the learned counsel for the petitioner and the materials placed before this Court by the petitioner as well as other respondents.



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(17)The first question this Court need to consider is the *locus standi* or maintainability of the writ petition by the petitioner to challenge the order of appointment of the 8th respondent as the Principal of the 7th respondent/College. Learned Senior counsel appearing for the 7th respondent seriously questioned the locus standi of petitioner placing reliance on several precedents.

(18)The post of Principal fell vacant in the 7th respondent/College with effect from 21.01.2017 due to the resignation of the then incumbent Dr.P.Rajendran. After appointing one Dr.Veerabadran as Principal in-charge on 21.01.2017 the 7th respondent/College Committee issued a Circular to all the Departments in the College calling for applications from the eligible teaching staff to submit their applications before 25.02.2017. The Selection Committee constituted earlier, considered the names of six applicants including the writ petitioner herein on 15.04.2017 and recorded that none of the candidates applied to the said post are fit. The College Committee thereafter by proceedings dated 17.04.2017 accepted the views of Selection Committee and



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resolved to get approval from the Joint Director of Collegiate Education for selection of Principal. Thereafter, a paper advertisement in Hindu was published on 06.12.2017 calling for applications to the post of Principal. It is the case of the 7th respondent/College that on 26.07.2017, the Selection Committee was constituted in accordance with the UGC Regulations, 2010. The Selection Committee considered the names of 11 applicants and recommended the names of three persons of which the 8th respondent Mrs.D.Brindha, was ranked No.1. By proceedings dated 27.03.2018, the College Committee accepted the decision of the Selection Committee and resolved to appoint the 8th respondent as Principal. By the impugned order dated 10.05.2018 the 8th respondent was appointed as Principal. Right from the date of appointment, the 8th respondent is functioning as Principal. Thereafter, the petitioner who himself participated in the previous selection process, was aware that the fresh selection process was set in motion by paper publication on 06.12.2017. The petitioner did not challenge the Notification issued for fresh selection.



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(19) One of the contentions raised by the petitioner in the present writ petition is that the fresh selection process without disclosing the fate of the selection process pursuant to the earlier Notification, is illegal. The petitioner did not bother to challenge the fresh Notification at the relevant point of time and the petitioner has not offered any valid explanation for keeping quiet all these years. The petitioner's non selection pursuant to the previous Notification is neither challenged nor vitiated for any irregularity. It is well settled that the call letter issued to the petitioner to attend the interview does not give the petitioner any vested right. When the process of selection came to a logical end by reporting that there was no candidate who is eligible or suitable for the post of Principal, the petitioner who has secured just 25 out of 100 marks and stood second to the last, cannot have a legitimate expectation that he is the most efficient and suitable candidate for the post. The 8th respondent was appointed as Principal by order dated 10.05.2018 and it is admitted that the 8th respondent is functioning as Principal from the next day, i.e., 11.05.2018. The appointment of the 8th respondent was also approved by the 3rd



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respondent-University by proceedings dated 12.11.2018. The petitioner who did not challenge the appointment all these years, has filed the present writ petition fifteen days after the order of punishment was issued to him. Therefore, in the factual background, this Court is of the view that the petitioner who did not even participate in the selection process, is not competent or has *locus standi* to maintain the present writ petition challenging the appointment of the 8th respondent as Principal in the 7th respondent/College.

(20)The Hon'ble Supreme Court in the case of ***Ayaaubkhan Noorkhan Pathan V. State of Maharashtra and Others*** reported in **2013 [4] SCC 465**, has considered the expression 'person aggrieved'. It is held that a person aggrieved does not include a person who suffers from a psychological or an imaginary injury. In other words, the Hon'ble Supreme Court held that a person aggrieved must necessarily be one whose right or interest has been adversely affected or jeopardised. It is further observed that a person who raises a grievance, must show how he has suffered a legal injury. It is also observed by the Hon'ble Supreme Court that a stranger cannot be permitted to meddle in any



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proceedings unless he satisfy the authority/Court that he falls within the category of aggrieved persons. Law has also been reiterated by the Hon'ble Supreme Court in many precedents that only a person who has suffered or suffers from legal injury can challenge an order in a Court of law. In the said judgment, it is held as follows:-

*"20. A similar view has been reiterated by this Court in **K. Manjusree v. State of A.P. [(2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841]**, wherein it was held that the applicant before the High Court could not challenge the appointment of a person as she was in no way aggrieved, for she herself could not have been selected by adopting either method. Moreover, the appointment cannot be challenged at a belated stage and, hence, the petition should have been rejected by the High Court on the grounds of delay and non-maintainability alone.*

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23. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus standi to raise any



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grievance whatsoever. However, in exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, inarticulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bona fides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo motu, in such respect."

(21)The Hon'ble Supreme Court in the case of ***B.Srinivasa Reddy Vs.***

Karnataka Urban Water Supply and Drainage Board Employees'

Association reported in ***2006 [11] SCC 731 [III]***, has held as follows:-

"51. It is settled law by a catena of decisions that the court cannot sit in judgment over the wisdom of the Government in the choice of the person to be appointed so long as the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. This Court in R.K. Jain v. Union of India [(1993) 4 SCC 119 :



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1993 SCC (L&S) 1128 : (1993) 25 ATC 464] was pleased to hold that the evaluation of the comparative merits of the candidates would not be gone into a public interest litigation and only in a proceeding initiated by an aggrieved person, may it be open to be considered. It was also held that in service jurisprudence it is settled law that it is for the aggrieved person, that is, the non-appointee to assail the legality or correctness of the action and that a third party has no locus standi to canvass the legality or correctness of the action. Further, it was declared that public law declaration would only be made at the behest of a public-spirited person coming before the court as a petitioner. Having regard to the fact that neither Respondents 1 and 2 were or could have been candidates for the post of Managing Director of the Board and the High Court could not have gone beyond the limits of quo warranto so very well delineated by a catena of decisions of this Court and applied the test which could not have been applied even in a certiorari proceedings brought before the Court by an aggrieved party who was a candidate for the post."



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(22) A Three Member Bench of the Hon'ble Supreme Court in the case of ***R.K.Jain Vs. Union of India*** reported in ***1993 [4] SCC 119***, has held as follows:-

"74. Shri Harish Chander, admittedly was the Senior Vice-President at the relevant time. The contention of Shri Thakur of the need to evaluate the comparative merits of Mr Harish Chander and Mr Kalyansundaram a seniormost member for appointment as President would not be gone into in a public interest litigation. Only in a proceedings initiated by an aggrieved person it may be open to be considered. This writ petition is also not a writ of quo warranto. In service jurisprudence it is settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. Third party has no locus standi to canvass the legality or correctness of the action. Only public law declaration would be made at the behest of the petitioner, a public-spirited person."

(23) The position may be different when a person files a writ of quo warranto against a person holding public office especially when the appointment is not in accordance with the Rules or the appointee is not



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eligible to hold the post in terms of mandatory requirement of laws.

The present case can be clearly distinguishable from the judgments relied on by the learned counsel for the petition and therefore, this Court is of the view that the writ petition is not maintainable.

(24)A Division Bench of this Court in WA.No.1053/2012 by judgment dated 04.03.2021 has held as follows:-

"4.The case of the appellant that if the results of the earlier selection process was announced and the results were made known to her, she could have applied for the second time, is only misconceived and the same has to be rejected. When the appellant had not even participated in the selection process for the second time, she has no locus-standi to challenge the earlier selection process. However, in the Writ Petition, the challenge is only to the communication sent regarding the cancellation of the earlier selection process. As much water has flown after that and that the list of selected candidates had already been published pursuant to the selection process for the second time. In the circumstances stated above, there is nothing to adjudicate further in this Writ Appeal."



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(25)The learned counsel for the petitioner relied upon the judgment of this Court in the case of ***Dr.K.R.S.Girija Shyamsundar Vs. State of Tamil Nadu and Others*** reported in ***2015 [3] LW 163***. In a writ petition where the appointment of Principal of a College was challenged by Professors of the College who had applied for the said post, the Hon'ble Mr. Justice M.M.SUNDRESH [as he then was], had elaborately considered the scope of UGC Regulations, 2010 and found that the constitution of Selection Committee as well as the manner in which marks were awarded, were not in accordance with the UGC Regulations, 2010. It was established before the Court that the Selection Committee followed UGC Regulations, 2000 and not the UGC Regulations, 2010 which was then in vogue and allowed the writ petition by quashing the process of selection. Further direction was issued by the Court to conduct fresh selection process for appointment/promotion to the post of Principal.

(26)Therefore, the judgment of this Court in ***Dr.K.R.S.Girija Shyamsundar's case*** may not be a precedent to support the case of the



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petitioner who has not participated in the subsequent selection process and hence, he is not a person aggrieved to have *locus standi* to maintain the writ petition.

(27)The learned counsel for the petitioner also relied upon the yet another judgment of this Court in the case of ***Dr.R.Nanthini and Others Vs. The State of Tamil Nadu rep.by the Secretary to Government, Higher Secondary Education Department, Fort St George, Chennai-9 and Others*** reported in **2019 [5] MLJ 78**. In a similar situation, where writ petitions were filed, challenging the process of selection conducted by the Selection Committee appointed by the Pachaiyappas Trust Board, a Learned Single Judge of this Court noticed that the selection was in violation of UGC Regulations as well as Rule 11[4] of the Tamil Nadu Private Colleges [Regulations] Rules, 1976. It is to be pointed out that one of the aspiring candidate namely a senior-most Associate Professor filed the writ petition. The representatives of the College Committee had sent a complaint alleging serious irregularities.

(28)From the facts revealed from the above judgments, several



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irregularities were noticed and the College Committee had given a complaint to the Director of Collegiate Education alleging serious irregularities in convening the Meeting of the College Committee and the decision taken to accept the recommendations of the Selection Committee. It was pointed out by the learned Single Judge that the constitution of the Selection Committee therein was not in consonance with the UGC Regulations and found that the entire selection was vitiated for flagrant violations of the Regulations. This Court having regard to the facts and principles laid down in the judgments referred to above, is unable to entertain the writ petition for want of *locus standi*.

(29) Further, this Court is unable to find any bona fides in the petitioner's writ petition having regard to the sequence of events and the fact that the present writ petition is filed immediately after the punishment inflicted on the petitioner by stoppage of two increments with cumulative effect.

(30) There is no limitation for filing a writ petition. However, the petitioner is expected to approach this Court within a reasonable time



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when he invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Any unexplained delay in filing the writ petition will cause immense hardship to the Management of the 7th respondent/College as well as the 8th respondent herein.

(31) This is not the case where the petitioner has come forward with the writ petition for violation of his fundamental rights or with the allegation that the petitioner is deprived of his right to property. It is well settled that though an unexpected delay is a deterring factor to exercise the discretion, no straight jacket formula is prescribed.

(32) In the case of ***Tukaram Kana Joshi and Others through Power of Attorney Holder V. MIDC and Others***, reported in 2013 [1] SCC 353, the Hon'ble Supreme Court has held as follows:-

"11. There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory



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dues, claim for educational facilities and other categories of similar cases, etc. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental right has been violated, under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The functionaries of the State took over possession of the land belonging to the appellants without any sanction of law. The appellants had asked repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode. There is a distinction, a true and concrete distinction, between the principle of “eminent domain” and “police power” of the State. Under certain circumstances, the police power of the State may be used



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temporarily, to take possession of property but the present case clearly shows that neither of the said powers have been exercised. A question then arises with respect to the authority or power under which the State entered upon the land. It is evident that the act of the State amounts to encroachment, in exercise of “absolute power” which in common parlance is also called abuse of power or use of muscle power. To further clarify this position, it must be noted that the authorities have treated the landowner as a “subject” of medieval India, but not as a “citizen” under our Constitution.

12. The State, especially a welfare State which is governed by the rule of law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise



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of jurisdiction to grant relief. There is another facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if the whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third-party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience."

(33)The Hon'ble Supreme Court in the said judgment, considered the infringement of petitioner's right in violation of Article 21 of the Constitution of India. This Court is bound by the observations of the



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Hon'ble Supreme Court. Whereas, the Hon'ble Supreme Court in several other cases has reiterated the principle that a writ petition is liable to be dismissed for laches if the petitioner has approached this Court with a long and unexplained delay, especially such delay is likely to cause serious prejudice or hardship to the other side. In this case, three years unexplained delay in approaching the Court is fatal.

(34) On the merits of the serious allegations levelled against the petitioner, the learned counsel for the petitioner reiterated the principles of natural justice and contended that even an administrative order which involves civil consequences has to be consistent with Rules of natural justice and that any infraction likely to affect the civil rights of anyone cannot be tolerated. Though the learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of **Canara Bank Vs. V.K.Awasthy** reported in **2005 [6] SCC 321**, this Court is unable to get any point that can be taken in favour of the petitioner in the present case. The petitioner is a person who has personal reasons against the Management of the 7th respondent/College who was recently served with the punishment of



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stoppage of increment for a period of two years with cumulative effect.

The writ petition is filed only after the order of punishment. This Court has already held that the writ petition is liable to be dismissed for want of *locus standi* and on the ground of delay and laches.

(35) However, the learned counsel appearing for the petitioner has referred to several judgments where the Hon'ble Supreme Court has reiterated the principle that total non-compliance of statutory provisions by the Selection Committee which makes the decision making process vulnerable to justify interference by High Court in exercise of its power under Article 226 of the Constitution of India. However, it is to be pointed out that the case relied upon by the petitioner is a where the writ petition is filed for issuance of a writ of quo warranto in appointment made contrary to the statutory provisions in relation to appointments in public office. The same principle cannot be extended to the present case where the writ petition is filed by a person who has no locus standi and that too, nearly three years after the appointment of the 8th respondent as Principal of the 7th respondent/College.



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(36) In the whole writ petition, the petitioner has pointed out only two irregularities. On the first irregularity, it was pointed out that an advertisement inviting applications for the post of Principal in the 7th respondent/College was issued by the Managing Trustee, namely, 6th respondent. It is contended by the learned counsel appearing for the petitioner that the Secretary of the 7th respondent/College alone is competent to issue such advertisement by referring to Rule 9 of the Tamil Nadu Private Colleges [Regulations] Rules, 1976. Since the Secretary is the one who is expected to act according to the Resolutions passed in the Meeting of the 7th respondent/College Committee, it is contended by the learned counsel appearing for the petitioner that the 6th respondent who is Managing Trustee has no authority to issue the Notification. It is admitted that the 6th respondent is the Chairperson of the College Committee. It is not in dispute that the College Committee has resolved to go for fresh selection by inviting applications for the post of Principal in the College. The Secretary is a person who is expected to function on behalf of the Committee and the Educational Agency. Rule 9 of the



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Tamil Nadu Private Colleges [Regulations] Rules, 1976, does not prevent the College Committee to act through the Chairman by making a paper publication. Even otherwise, the issuance of Notification cannot be taken as a violation of UGC Regulations, 2010 or Rule 9 of the of the Tamil Nadu Private Colleges [Regulations] Rules, 1976.

(37)The second irregularity relates to constitution of Committee. Though the petitioner has not given any details of the violation in the affidavit filed in support of this writ petition, in the written submission it was pointed out that as per the Communication sent by the 3rd respondent to the 7th respondent/College, the following persons were nominated by the Vice Chancellor of the 3rd respondent/University:-

Vice Chancellor's nominee	Dr.B.Vanitha
BC Nominee	Dr.K.Govindarajulu
OC Nominee	Dr.N.Jeya Kumar

(38)From the typed set filed by the 7th respondent/College, it is seen that the Selection Committee was constituted with the following members:

Members Present:-



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- | | | |
|----|------------------------|--|
| 1] | Shri L.Gopalakrishnan | Chairman |
| 2] | Shri GR.Karthikeyan | Member |
| 3] | Dr.V.Selvarajan | Member |
| 4] | Dr.K.Govindarajulu | Nominated by the
Bharathiyar University |
| 5] | Dr.S.Nehru | Member |
| 6] | Dr.A.Kandasamy | Member |
| 7] | Dr.Sheela Ramachandran | Member |

(39)It is the contention of the petitioner that Dr.K.Govindarajulu though was shown as a Member nominated by the Bharathiyar University, the communication received from the 3rd respondent/University would only show the name of Dr.B.Vanitha, as the Vice Chancellor's nominee and two other persons mentioned in the communication cannot be considered as the persons who were nominated by the Vice Chancellor of the 3rd respondent/University.

(40)First of all, as per UGC Regulations, the University could nominate only one person and it is not known as to how the University nominated three persons in different categories. This issue was raised



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by the University and it was later ratified as Dr.K.Govindarajulu was one of the nominee of the Vice Chancellor. From the communication that is addressed to the 3rd respondent/University, it was reported that when the 7th respondent approached the 3rd respondent/University for qualification approval of 8th respondent as Principal, the same was returned to the 7th respondent/College informing that the Vice Chancellor nominee has not signed the Selection Committee and College Committee vide letter dated 20.06.2018. Thereafter, the 3rd respondent was appraised of the fact that Dr.K.Govindarajulu was appointed as nominee of Vice Chancellor as his name was also found in the communication as a nominee of Vice Chancellor. Thereafter, the 8th respondent was asked to meet the nominee of Vice Chancellor with regard to her qualification approval by letter dated 29.10.2018. It appears that Dr.B.Vanitha who was the nominee of Vice Chancellor as per the communication addressed to the 7th respondent, assessed the qualification approval of the 8th respondent and found that the selection process was in order. It was thereafter, the 3rd respondent has also approved the qualification approval of 8th respondent as Principal



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of the 7th respondent/College.

(41) In the communication dated 23.01.2018, it is seen that Dr.K.Govindarajulu is the Professor and HOD of Economics and Dr.B.Vanitha was the Professor in the Department of Economics. Therefore, the competency or eligibility of Dr.K.Govindarajulu as nominee of Vice Chancellor in the Selection Committee cannot be questioned by a disgruntled Professor who had not even participated in the selection process. This has been rightly considered by the 3rd respondent/University and the 3rd respondent/University has granted approval for the appointment of 8th respondent as Principal of 7th respondent/College.

(42) Though the petitioner has raised several grounds in his written submissions complaining about the process of selection by the Selection Committee regarding the marks being awarded to the candidates, this Court is unable to find any substance on merits. It was not demonstrated before this Court as to how the procedure followed by Selection Committee is not in accordance with the UGC Regulations, 2010. A mere repetition of bald allegations in the



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affidavit is not sufficient to prove that the scoring system, namely, Academic Performance Indicators adopted by the Selection Committee is not in accordance with the UGC Regulations, 2010. As a matter of fact, the petitioner refers to the evaluation done in the previous selection process and the same has no relevance in the present case.

(43) This Court is unable to find the actual deviation in the evaluation process either in the affidavit or in the written submission.

(44) In view of the conclusion reached above, this Court finds no merit in the writ petition. Accordingly, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

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AP

Internet : Yes



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To

- 1.The Secretary
State of Tamil Nadu
Department of Higher Education
Secretariat, Fort St George
Chennai 600 009.
- 2.The Vice Chancellor
Bharathiar University
Coimbatore 641 046.
- 3.The Registrar,
Bharathiar University
Coimbatore 641 046.
- 4.The Director of Collegiate Education
9th Floor, EVK Sampath Buildings
College Road, Chennai 600 006.
- 5.The Secretary
The University Grants Commission [UGC]
Bahadurshah Zafar Marg
New Delhi 110 002.
- 6.The Managing Trustee
President College Committee
PSG College of Arts and Science
Coimbatore 641 004.
- 7.The Secretary
PSG College of Arts and Science
Coimbatore 641 014.



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S.S.SUNDAR, J.,

AP

**Order in
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