



W.P.No.14346 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.14346 of 2023 &

WMP.No.13855 of 2023

.Saravanan

... Petitioner

Vs

1. The Vice Chancellor,
Annamalai University,
Chidambaram, Cuddalore District.

2. The Registrar,
Annamalai University,
Chidambaram, Cuddalore District.

3. B.Selvaganapathy

... Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned Order dated 28.04.2023 bearing No.192 of 2023 [C2] passed by the first respondent and quash the same as illegal.



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For Petitioner : Mr.Nagasubramanian

For Respondents : Mr.V.Jeevagiridharan,
Additional Government Pleader – R1 & R2

Mr.I.John Arockiadas – R3

ORDER

This Writ Petition has been filed to quash the impugned Order suspending the petitioner from his service dated 28.04.2023 bearing No.192 of 2023 [C2] passed by the first respondent as illegal.

2. The main ground on which the impugned Order is challenged is that he has been convicted in a proceedings under section 138 of Negotiable Instruments Act. The main ground on which the suspension is challenged is that having invoked the provisions under Rule 10[5] of the University Act, while suspending the petitioner, appropriate opportunity has to be given. Hence, the Order of suspension is bad in the eye of law.



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3. The learned counsel appearing for the respondent submitted that appeal remedy is available petitioner and hence, this Writ Petition is not maintainable.

4. I have perused entire materials available on record. The petitioner has not been suspended on the basis any other dereliction of duty during his tenure. He has been placed under suspension mainly on the ground that he has been convicted for the offence punishable under section 138 of the Negotiable Instruments Act instituted by one Selvaganapathy. It is not disputed that the sentence has also been suspended by the appellate Court. Be that as it may.

5. The petitioner has been suspended invoking power under 10 of the Annamalai University Act, Tamil Nadu Act 20 of 2023 and it is relevant to extract Rule 10 [5] of Annamalai University Act which reads as follows :

(5) In any emergency, which in the opinion of the
Vice-Chancellor requires immediate action to be taken,



he shall, by order, take such action as he deems necessary and shall, at the earliest opportunity, report the action taken to such officer or authority or body as would have in the ordinary course dealt with the matter:

Provided that no such order shall be passed unless the person likely to be affected, has been given a reasonable opportunity of being heard.”

A perusal of the above Rule makes it clear that in any emergency which requires immediate action to be taken, the Vice Chancellor can take such an action as it was necessary, provided no such Order passed unless the person likely to be affected, has been given a reasonable opportunity of being heard. The proviso to Rule 10[5] makes it clear that before any action being taken reasonable opportunity is a *sine qua non*. Therefore, this Court is of the view that when the very suspension Order is passed which leads to serious consequences in the service of a person, and while invoking such powers under Rule 10[5] of Annamalai University Act, 2013, the respondent ought to have given reasonable opportunity, which



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is lacking in this case. When the rule is not followed, the Order of suspension cannot be sustained in the eye of law.

6. Accordingly, this Writ Petition is allowed and the impugned Order dated 28.04.2023 passed by the first respondent is quashed. Consequently, connected miscellaneous petition is closed. No costs.

31.07.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Vice Chancellor,
Annamalai University,
Chidambaram, Cuddalore District.
2. The Registrar,
Annamalai University,
Chidambaram, Cuddalore District.



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N.SATHISH KUMAR, J.

VTC

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