



W.P.Nos.25469 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.07.2023

Pronounced on : 28.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.Nos.25469 of 2022
and WMP.No.24470 of 2022

Dr.M.Uma

... Petitioner

Vs.

1.The Vice Chancellor
University of Madras
Century Building
Chepauk, Chennai - 600 005.

2.The Registrar
University of Madras
Century Building
Chepuak, Chennai - 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorari calling for the records culminating in the order dated 13.09.2022 bearing reference No.V.1/AC-ELE/09-2022/308 passed by the second respondent and quash the same.



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For Petitioner : Mr.Krishna Srinivasan
for M/s.S.Ramasubramanian & Asso.

For Respondents : Mr.A.S.Vijayaraghavan of R1 & R2

ORDER

The petitioner herein is the Principal of Prince Shri Venkateswara Arts & Science College, Gowrivakkam. She is the member of the Academic Council of Madras University. While so, the University came out with a notification dated 25.08.2022 for election to the Syndicate of the University. Under Section 18 (1) (a) of the Madras University Act, 1923, five members from the Academic Council of the University, are to be elected from within the Council for the Syndicate. Of these five members, four shall be teachers of the affiliated colleges and one shall be a teacher of the approved college. The petitioner is serving as the Principal of an affiliated college.

2. Now, in response to the notification dated 25.08.2022 for election to the Syndicate, the petitioner chose to contest the election, and filed her nomination on 07.09.2022. On the same day, the nominations were scrutinised and a preliminary list of valid nominations was published. In the



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preliminary list, the petitioner's name figured. In terms of the schedule for the election, the last day for the withdrawal of the nomination was 4 p.m on 13.09.2022. The petitioner did not withdraw her nomination and on the same day, the final list of candidates was published. In this final list of candidates petitioner's name was not included. This is now under challenge.

3.1 The learned counsel for the petitioner added that under Section 18 of the University Act, 2023, provides for the constitution of a Syndicate and also enumerates the various class of members who will be eligible to be a member of the Syndicate. This includes five members elected by the academic council from among its own members, of whom, four shall be teachers of affiliated colleges and the remaining shall be a teacher of an approved college as provided under Section 82. The petitioner's college though a self financing college, it is an affiliated college to the Madras University and as a member of the academic council, she is eligible to contest for the Syndicate election. It is indeed the petitioner's name found a place in the preliminary list of candidates, but for inexplicable reason her name was dropped in the final list.

3.2 The short and significant allegation made by the learned counsel for the



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petitioner is that the only circumstance when a name included in the preliminary list of candidates can be removed is when a candidate withdraws the nomination. Since the petitioner has not withdrawn her nomination, the final list excluding her name is bad in law and is malafide done. Till date she was not even informed why her nomination was rejected, when after the scrutiny of nomination she was found eligible to contest the election and when her name was also included in the preliminary list of eligible candidates.

3.3 A right to contest an election, that too under a statute is a civil right, and by denying the petitioner an opportunity to contest the election that she was wronged.

4. Per contra, Mr.Vijayaraghavan, the learned standing counsel appearing for the respondents submitted:

- That for a teacher to contest in an election for Syndicate, he or she must be teacher member in the Academic Council, but it is significant that such teacher should fall within the definition of a teacher under Sec.18 within the meaning of Chennai University Act, 2023, as per which, such teacher should be under the pay scale of the State Government or UGC as prescribed from time to time. The petitioner has not established that she falls within the definition of *a teacher* by



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terms of Sec.23 of the Act, the Academic Council *inter alia* includes both teaching members and those members of the Senate '*who are not teachers*', elected by the Senate. What can therefore be derived from this is that every teacher-member of the Academic Council has a right to contest the election for the Syndicate.

7. Now, the petitioner admittedly was a member of the Academic Council at the relevant time, and if at all there could be an objection to the petitioner's candidature for the election to the Syndicate, it can be only on an assertion that the petitioner was a non-teaching member (elected from among the members of the Senate) of the Academic Council within the meaning of Sec.23 of the Act. Now, if the counter of the University is scanned for details, nowhere it asserts that the petitioner falls within the category of the non-teaching members elected by the Senate to the Academic Council. And, it does not deny the fact that she is not a teacher, as she is very much the Principal of an affiliated college. And, it springs a surprise upon this Court when the respondent requires her to prove that she falls within the definition of a teacher within the meaning of Sec.25(8) of Chapter XXVI of the Act, (a provision this court could not find anywhere) and that she has not established



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that she is drawing a salary as per the scale of pay of the Government or the UGC scale of pay as a ground for rejecting her nomination in the final list after accepting it earlier. What is illogical about this stand is that if the petitioner does not satisfy the criterion as a teacher, she could not have been in the Academic Council in the first place. And, when she had entered the Academic Council, in the absence of proof that she was there only as a non-teaching member elected by the Senate from among its members to the Academic Council, there can be no justification for removing the petitioner from contesting in the election to the Syndicate.

8. Turning to the salary slip that was sought, does not the University even know the scale of pay which the petitioner receives? And, this Court find that neither Sec.18, nor the notification for the election for the Syndicate, dated 25.08.2022 has mandated that salary slip must be enclosed along with the nomination. And, if it is mandatory, how to justify publishing the preliminary list of candidates with the name of the petitioner included. There is more than that meets the eye.

9. It may be that the petitioner might have been barred from functioning as a



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member of the Academic Council today for an event that had taken place after the publication of the final list of candidates. But it has little to do with the fact that the removal of her name from the final list of candidates is irrational and done with malafide, and is reprehensible. That requires to be declared.

10. Given the change of circumstances where the petitioner finds herself now, having been barred from being a member of the Academic Council (which is not seen to have been challenged), this Court does not choose to strike off the final list of candidates as published on 13.09.2022, but modifies the relief and declares that the removal of petitioner's name in the final list of candidates is illegal, and malafide done. The petition is allowed in terms thereof. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

Index : Yes / No

Speaking Order : Yes / No

Asr/ds



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N.SESHASAYEE.J.,

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Pre-delivery order in
W.P.Nos.25469 of 2022

28.07.2023