



W.A.(MD)No.1389 to 1394 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1389 to 1394 of 2013

and

M.P.(MD)Nos.1, 2, 2, 2, 2 and 2 of 2014

W.A.(MD)No.1389 of 2013:

The Secretary,
(SET-2012),
Bharathiar University,
Coimbatore-641 046,
Coimbatore District.

...Appellant

/Vs./

1.C.Kamalakkannan
2.The University Grant Commissioner (UGC),
Rep.by its Chairman,
Bahadur Shah Zafar Marg,
New Delhi-110 002.

3.The Government of Tamil Nadu,
Rep by its Principal Secretary,
Higher Education Department,
Fort St.George,
Chennai-600 009

...Respondents



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PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 15.07.2013 in W.P.(MD)No.11166 of 2013 by this Court.

For Appellant	: Mr.Rajarajan
For R1 & R2	: No Appearance
For R3	: Mr.V.Om Prakash

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

We have heard Mr.Rajarajan, learned Standing Counsel for Bharathiyar University, appellant in all appeals.

2.Notice has been issued to the private respondents, who are the contesting respondents. Though they have been served in all cases, there is no appearance by or on their behalf. Mr.V.Om Prakash, learned counsel appears for the State, represented by Principal Secretary, who is a formal party. No appearance for University Grants Commission (UGC) as well.



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3.The issue in the present appeal is identical to, and covered by the judgment of the Hon'ble Supreme Court in *University Grants Commissioner and another vs. Neha Anil Bobde (Gadekar)* [(2013) 10 SCC 519].

4.The private respondents have written State Eligibility Test (SET), which is in on par with the National Eligibility Test (NET) and for which identical sets of testing criteria are adopted. The qualifying criteria have been stipulated stage wise and fall into three stages. The first stage relates to achievement of minimum qualifying percentage in three papers as follows:

Category	Paper I	Paper II	Paper III
General	40(40%)	40(40%)	75(50%)
OBC (Non-Creamylayer)	35(35%)	35(35%)	67.5(45%) Rounded off to 68
PWD/SC/ST	35(35%)	35(35%)	60(40%)



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5.The third respondents/writ petitioners had contended that achievement of the above minimum percentage would suffice for selection. They thus, approached this Court seeking a quash of the selection list and seeking directions for inclusion of their candidature for lectureship in the subject of Computer Science and Applications.

6.In considering this very issue, the Hon'ble Supreme Court noted that achievement of minimum percentage only constitutes satisfaction of the initial threshold. There are two other qualificatory tests/stages that would have to be achieved by the applicants. The subsequent two stages are as set out in Clause 6 (2)(i) of Qualifying Criteria for June-2012 fixed by UGC as follows:

(i)Only such candidates who obtain the minimum required marks in each paper, separately, as mentioned above, will be considered for final preparation of result. However, the final qualifying criteria for Eligibility for Lectureship shall be decided by SET 2012 Moderation Committee before the declarations of result.”

7.This is in pari materia with what is stipulated for the NET, as may be seen from the stipulation below:



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26.1.(i) *Candidates to obtain minimum marks separately in Paper I, Paper II and Paper III.*

26.2.(ii) *Candidates who have satisfied the above criteria only would be subjected to a qualifying criteria before the final preparation of result; (consideration zone)*

26.3(iii) *UGC has to fix the final qualifying criteria before the declaration of results.*

8. The achievement of the final qualifying criteria would stand triggered only after the candidates have crossed the first threshold and it is in the achievement of the final qualifying criteria, that the candidatures of the writ petitioners were found wanting. The Hon'ble Supreme Court had found that the fixation of final criteria is provided in the Rules and that UGC had acted properly in the procedure adopted.

9. Paragraphs 29 to 31 would be applicable on all fours to the present matter, read thus:

“29. We are of the considered opinion that all the steps taken by UGC were in accordance with Clause 7 of the notification issued for the NET Examination, 2012. Prescribing the qualifying criteria as per Clause 7, in our view, does not amount to a change in the rule of the game as it was already premeditated in the notification. We are not inclined to say that UGC has acted arbitrarily or whimsically against the candidates. UGC in exercise of its statutory powers and the laid down criteria in the notification for NET June 2012, has constituted a Moderation Committee consisting of experts for



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finalising the qualifying criteria for Lectureship eligibility and JRF. UGC acted on the basis of the recommendations made by the expert committee. The recommendations made by them have already been explained in the earlier part of the judgment. The reason for making such recommendations has also been highlighted in the report.

30. We are of the considered view that the candidates were not misled in any manner. Much emphasis has been made on the words "clearing the National Eligibility Test". "Clearing" means clearing the final results, not merely passing in Paper I. Paper II and Paper III, which is only the initial step, not final. To clear the NET examination, as already indicated, the candidate should satisfy the final qualifying criteria laid down by UGC before declaration of the results.

*31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the courts shall keep their hands off since those issues fall within the domain of the experts. This Court in *University of Mysore v. C.D. Govinda Raos*, *Tariq Islam v. Aligarh Muslim University* and *Rajbir Singh Dalal v. Chaudhary Devi Lal University*¹⁰, has taken the view that the court shall not generally sit in appeal over the opinion expressed by the expert academic bodies and normally it is wise and safe for the courts to leave the decision of the academic experts who are more familiar with the problem they face, than the courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the university. For attaining the said standards, it is open to UGC to lay down any "qualifying criteria", which has a rational nexus to the object to be achieved, that is, for maintenance of standards of teaching, examination and research. The candidates declared eligible for*



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Lectureship may be considered for appointment as Assistant Professors in universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India.”

10.The order of the learned Single Judge is thus contrary to the ratio of the judgment in *Neha Anil Bobde (Gadekar)'s* case and is liable to be reversed. These Writ Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]
12.07.2023

NCC :Yes/No
Index :Yes/No
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)Nos.1389 to 1394 of 2013

Dated:
12.07.2023