



W.P(MD)No.4906 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4906 of 2023

and

W.M.P.(MD)No.4591 of 2023

R.Arunachalam

... Petitioner

Vs.

1.The Registrar,
Tamilnadu Agricultural University,
Coimbatore-641 003.

2.The Dean,
Agricultural College and Research Institute,
Madurai-625 104.

3.The Dean,
School of Post Graduate Studies,
Tamilnadu Agricultural University,
Coimbatore-641003.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of transfer made by the first respondent in his proceedings in A2/001817/2023, dated 25.02.2023 and quash the same as illegal.



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For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.A.Thirumurthy
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent University.

2. The petitioner is working as professor in the department of the agriculture extension and rural sociology attached to the Agricultural College, Madurai. It is a constituent college of the respondent university. By the impugned order, the petitioner has been transferred and posted at Aduthurai. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The respondents have filed a detailed counter affidavit and the learned standing counsel took me through its contents.



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5. The stand taken in the counter affidavit is that the transfer order became necessitated on account of the complaint of the sexual harassment levelled against the petitioner by two female scholars who were guided by the petitioner herein. The learned standing counsel produced the file containing the original complaints lodged by the scholars and also the preliminary report of the Internal Complaints Committee. He would emphasize that in order to preserve and maintain the reputation of the University, it was decided to effect the impugned order of transfer. It was also submitted that the transfer order was issued only with the approval of the Vice-Chancellor and that therefore, no infirmity can be attributed. The learned standing counsel pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The issue raised in the writ petition can be disposed of on the ground of jurisdiction alone. As per Section 7(2)(d) of Tamil Nadu Agricultural University Act, 1994, the Vice-Chancellor is empowered to transfer a personnel from one post to another in the interest of the University without affecting their emoluments and service conditions. It is not in dispute that the vice-chancellor



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is the authority competent to transfer heads of the department / librarians and professors. The registrar is obviously not competent to transfer the petitioner from one place to another. In the impugned proceedings, it has been clearly mentioned that transfer order was issued with the approval of the Vice-Chancellor. Paragraph Nos. 9 & 12 of the counter affidavit filed by the University read as under:-

“9. It is submitted that the averment made in para-8 of the affidavit, the impugned transfer order has originated from the first respondent-Registrar and thereafter approved by the Vice-Chancellor and hence, the transfer order lacks jurisdiction, is denied as false. In this regard, it is submitted that once the order has been approved by Vice-Chancellor, it gets legal status and hence, the communication of the order approved by the Vice-Chancellor by the first respondent-Registrar cannot be construed that the order has been originated from the first respondent. Hence, this averment is liable to be rejected as devoid of merit.

12. The averment made in ground-(C) is denied as misleading and false. In this regard, it is submitted that once the order is approved by the Vice-Chancellor, it gets legal status and hence, communicating the same by the first respondent does not invite any jurisdictional issue and hence, this ground is liable to be dismissed as misleading and false.”

8. From the stand taken in the counter affidavit, it is clear that the order was not passed in the first instance by the Vice-Chancellor. The Vice-Chancellor had only approved the proceedings issued by the Registrar of the University. This clearly runs counter to the statutory scheme. The transfer



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order has to be issued in the very first instance itself by the Vice-Chancellor. It can be communicated by the Registrar. In the counter affidavit, it is contended that once the order is approved by the Vice-Chancellor, it would get legal status. That would not be in consonance with the statutory provision. On this ground of want of jurisdiction, the order impugned in the writ petition is set aside. It is of-course open to the Vice-Chancellor of the University to issue a fresh transfer order.

9. With this liberty to the respondent University, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2023

Index : Yes / No
Internet : Yes/ No
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NOTE:Issue Order Copy on 17.03.2023



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G.R.SWAMINATHAN, J.

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