



W.P.(MD)No.7747 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.7747 of 2018

W.M.P(MD).Nos.7358 to 7360 of 2018

Dr.M.Selvam

Vs.

....Petitioner

- 1.The State of Tamil Nadu,
Rep.by its Principal Secretary to the Government
Higher Education Department,
Secretariat,
Chennai.
- 2.The Vice-Chancellor,
Bharathidasan University,
Palkalaiperur,
Trichy
Tiruchy District.
- 3.The Registrar,
Bharathidasan University,
Palkalaiperur,
Trichy,
Trichy District.
- 4.Dr.G.Gopinath,
The Registrar,



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Bharathidasan University,
Palkalai Perur,
Trichy,
Trichy District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the appointment of the fourth respondent as Registrar of the third respondent University pursuant to the Notification issued by the third respondent in proceedings in Advt.No.B4/06310/2017 dated 20.07.2017 and quash the same as illegal and consequentially to direct the respondents to make selection earmarking not less than 15% of total marks for interview within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel for
M/s.Ajmal Associates

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for R1
Mr.V.R.Shanmuganathan
for R2 and R3
No-appearance for R4



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ORDER

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This Writ Petition has been filed to call for the records relating to the appointment of the fourth respondent as Registrar of the third respondent University, pursuant to the notification issued by the third respondent in proceedings in Advt.No.B4/06310/2017 dated 20.07.2017, quash the same as illegal and direct the respondents to make selection earmarking not less than 15% of marks for interview within the period fixed by this Court.

2. The case of the petitioner is that he is working as Professor and Head, Department of Commerce and Financial studies, School of Economics and Commerce, Bharathidasan University, Thiruchirappalli. Initially, he was appointed as Teacher Training Fellow in Commerce in the Centre for Distance Education on 18.12.1992. The third respondent vide impugned proceedings dated 20.07.2017 published the notification inviting application from the eligible candidates for recruitment to the various posts including the post of Registrar in the third respondent University. The petitioner has applied to the post of Registrar through proper channel on 11.08.2017 and thereafter, he was called for interview



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scheduled to be held on 12.12.2017. Totally, 12 candidates have participated in the interview including the petitioner and the fourth respondent. The Selection Committee has fixed 100 marks and 100 marks are segregated as 75:25 (i.e.,) 75 marks for academic credentials and 25 marks for interview, which consists 10 marks for vision plan and 15 marks for performance in interview. The petitioner was awarded 59 marks out of 75 marks in academic credentials and the fourth respondent was awarded 49 marks. In the interview, the petitioner was awarded only 3 marks out of 25 marks, whereas, the fourth respondent was awarded 23 marks. The petitioner's candidature was rejected on the ground that he has secured 3 marks out of 25 marks in the interview. In order to select the fourth respondent, the petitioner was awarded 3 marks out of 25 marks and in the academic credentials, the petitioner is the only candidate, who secured highest mark. Hence, the interview was conducted in a biased manner. Challenging the appointment of the fourth respondent, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has secured higher marks in the academic



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credentials than the private respondent, the private respondent was selected. Contrary to the settled law, the private respondent was awarded 23 marks out of 25 marks in the interview. In order to select the private respondent, the petitioner was granted lower mark in the interview. Hence, the interview was conducted by the Selection Committee in a biased manner.

4. The learned Standing Counsel appearing for the respondents 2 and 3 would submit that though the petitioner has secured more marks in the academic credentials, he has not performed well in the interview. Therefore, he was not selected and since the private respondent has completed his tenure, the present writ petition has become infructuous.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent, the learned counsel appearing for the respondents 2 and 3. Though notice has been served to the private respondent, there is no representation for the private respondent.

6. There is no dispute with regard to the manner in which the examination was conducted or the award of marks in the academic in the



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examination. The petitioner had obtained 59 marks while the 4th respondent had obtained 49 marks. It is also not disputed by the respondents that the petitioner has secured the highest marks in the written examination. However, in the interview, the petitioner was awarded with 3 marks, while the 4th respondent was awarded 23 marks out of 25. Though it is within the purview of the Selection Committee to award marks on the basis of the performance of a candidate in the interview, however, it should not be lost sight of that the said assessment should be based on just and proper reasoning. The petitioner has been awarded marks less than 15% of the marks in the interview, though the petitioner is the highest scorer in the academics. The basis on which the marks in the interview has been awarded has not been placed before this Court. The counter of the respondent also does not reveal the manner in which the marks have been awarded.

7. It is the duty of the respondents to award marks on the basis of sound reasoning and based on proper assessment. However, there is no material to substantiate the basis on which the respondents have awarded the marks to the petitioner and the 4th respondent. This Court is not for a



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moment suggesting that the 4th respondent has not done well in the interview, but the fact that the petitioner has been awarded paltry marks, while the 4th respondent has been awarded the maximum marks inspite of the fact that the petitioner has secured more than 85% in the academic examination does not augur well with this Court. In the absence of any proper reasoning in the award of marks by the Selection Committee, the only inference that could be drawn is that more marks in the interview has been awarded to the 4th respondent only to boost his overall score to be more than that of the petitioner.

8. In this regard, useful reference can be had to the decision of the Apex Court in ***Ashok & Ors. - Vs - State & Ors. MANU/SC/0448/1992***), wherein, in identical circumstances, the Supreme Court observed as under :-

"2. The appellants filed a petition before the Karnataka Administrative Tribunal challenging the Rules on the ground that the percentage of marks for viva voce as 33.3 were excessive and in violation of the decisions of this Court. The Tribunal by its order dated 24th May, 1990 dismissed the petitions and the appellants



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aggrieved against the aforesaid decision have approached this Court by grant of special leave. It is not necessary to examine the matter in detail inasmuch as 50 marks for interview out of 150 are clearly in violation of the judgment of this Court in Ashok Kumar Yadav and Ors. v. State of Haryana and Ors. MANU/SC/0026/1985 : [1988] Su. S.C.R. 657 and Mohinder Sain Garg v. State of Punjab and Ors. MANU/SC/0519/1991 : (1991)1SCC662 . On a direction given by this Court on 4th September, 1991 the record of the Selection Committee was produced before this Court at the time of hearing. From a perusal of the marks awarded to the selected candidates it is clear that a large number of candidates have been selected though they had secured much lesser marks than the appellants in the qualifying examination but had secured very high marks in the viva voce out of 50 marks kept for this purpose. Thus it is an admitted position that if the marks for interview were kept even at 15% of the total marks and merit list is prepared accordingly then both the appellants were bound to be selected and a large number of selected candidates would have gone much lower in the merit list than the appellants. In view of the fact that the result of the impugned selections was declared in 1987 and the selected candidates have already joined the posts, we do not consider it just and proper to quash the selections on



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the above ground. Further the selections were made according to the Rules of 1973 and this practice is being consistently followed for the last 17 years and there is no allegation of any malafides in the matter of the impugned selections. However, the Rules are clearly in violation of the dictum laid down by this Court in the above referred cases and in case the marks for viva voce would have been kept say at 15% of the total marks, the appellants before us were bound to be selected on the basis of marks secured by them in interview, calculated on the basis of converting the same to 15% of the total marks."

(Emphasis Supplied)

9. It is also to be noted that the selection of candidates is not for any menial post, but it is for the post of Registrar. Definitely, when the petitioner has scored more than 85% marks in the academic examination, definitely he would have fared well even in the interview and definitely would be eligible to more marks than what has been awarded to the petitioner. Grant of marks to the petitioner vis-a vis the 4th respondent by the Selection Committee clearly show the biased manner in which the interview has been conducted, which is only for the purpose of selecting candidate of their choice and not on the basis of higher merit. Further,



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had the marks for the viva voce been kept on the lower side, as has been observed in the aforesaid decision, the respondents would not have had the opportunity to place the 4th respondent above the petitioner by granting more marks in the viva voce, when the marks obtained by the petitioner in the written test outweigh the marks obtained by the 4th respondent.

10. For the reasons aforesaid, this Court is of the considered view that the selection of the 4th respondent is wholly arbitrary and unsustainable and deserves interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution. Accordingly, the writ petition is allowed and the impugned appointment of the 4th respondent is set aside. The respondents 1 to 3 are directed to initiate a fresh selection process for selection of candidates for the post of Registrar in accordance with law. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No



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To

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to the Government
Higher Education Department,
Secretariat,
Chennai.

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Bharathidasan University,
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3.The Registrar,
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M.DHANDAPANI,J.

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