



W.P.No.16425 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.No.16425 of 2015

S.L.Maheswari

... Petitioner

Vs.

1.The Vice Chancellor,
University of Madras,
Centenary Building,
Chepauk, Chennai – 600 005.

2.The Registrar,
University of Madras,
Centenary Building,
Chepauk, Chennai – 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Official communication No.D.1(A)/TE/2015/474 dated 29.05.2015 as well as subsequent impugned proceedings issued by the 2nd respondent in Official Communication No.D.1(A)/TE/2015/482 dated 02.06.2015 and to quash the same and consequently directing the respondents to alter the date of birth of the petitioner in the service Register as 15.02.1957 instead of 15.05.1955 and to allow the petitioner to continue in service till the date of retirement as per



W.P.No.16425 of 2015

the original date of birth with all consequential and other attendant benefits.

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For Petitioner : Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : M/s.V.Sudha

ORDER

Challenging the rejection of her request to correct her date of birth by the second respondent by his official communication dated 29.05.2015 followed by the communication dated 02.06.2015, the petitioner is before this Court seeking to quash the said orders and to consequentially direct the respondent to alter the date of birth of the petitioner as 15.02.1957 instead of 15.05.1955 as it is now registered and to allow the petitioner to continue in service till the date of retirement as per her original date of birth with all consequential and other attendant benefits. Before discussing the facts of the case it is necessary to state that pending the writ petition, the petitioner had been superannuated from the afternoon on 31.05.2015.



W.P.No.16425 of 2015

PETITIONER'S CASE:-

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2. The petitioner whose qualification was M.Sc., M.Phil and Ph.D., in Zoology was appointed as a Lecturer in the University of Madras in the Department of Pharmacology. She was appointed to the said post on 26.03.1985 and had joined service on 27.06.1985. after completing her guest scientist tenure at Sophiya University, Tokyo, Japan. She was promoted to the post of Reader in the year 1993 and as a Professor on 23.10.1998 based on seniority and eligibility.

3. The petitioner would submit that her actual date of birth was 15.02.1957, whereas, her date of birth had been wrongly given in the school records and therefore when she completed her 10th standard the date of birth has been wrongly entered as 15.05.1955 instead of 15.02.1956. She would submit that she had noticed the wrong entry only when she had taken up her research work in the year 1980 after completing her M.Phil., that too when she came to know about the age limit for applying for an international fellowship. Thereafter, she had applied and obtained her birth certificate in the year 1982 from the Corporation of Chennai. In her birth certificate her age is rightly given as 15.02.1957. She would further submit that she has all



W.P.No.16425 of 2015

along used the birth certificate as a proof of her age for her Passport, Voter ID etc.,

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4. She would further submit that when she joined as Lecturer in the University, she had submitted her birth certificate along with her application, however, the University has proceeded to consider only her SSLC book and not her birth certificate. The petitioner had made a representation, immediately on her joining the respondent University in the year 1987 to the second respondent through proper channel seeking to alter her date of birth in the service records based on the birth extract.

5. This application was in accordance with the provisions of the statute of the University which clearly stipulates that an application for alteration of date of birth in the official records shall be entertained if the same is made within five years of entry into service.

6. On receiving this application, the petitioner was directed to approach the Director of School Education to alter the entry in the SSLC book as a first instance. Therefore, she had applied to the second respondent to forward her



W.P.No.16425 of 2015

application to the Director of School Education with the copy of the birth extract issued to her by the Corporation of Chennai, Madras. However, the Director of School Education issued proceedings dated 14.04.1988 that no alteration can be made in the SSLC book once it is issued as per regulations.

7. The petitioner would submit that she had received yet another letter from the second respondent directing her to get her date of birth altered first in the SSLC and her college records and then to approach the University for further action.

8. Based on this instructions, the petitioner has approached the department of School Education as well as the Collegiate Education for altering the entry in the SSLC book. However, she was informed that it could not be done and it was only the employer, namely; University of Madras which was the competent authority to alter the service records. The petitioner therefore informed the second respondent about the instructions received from the Directorate of School Education and the Directorate of School Education had requesting the second respondent to pass appropriate orders altering her date of birth in the service records.



W.P.No.16425 of 2015

WEB COPY

9. The petitioner would submit that despite several requests and representations, the entry was not corrected. Thereafter, on 09.08.2012, the petitioner had made a representation to the second respondent. She was then asked by proceedings dated 04.09.2012 of the second respondent to produce evidence to show how the date of birth in the SSLC book was different from the birth certificate issued by the Corporation and to explain how it was taken on record. The petitioner had issued a reply dated 14.09.2012 clarifying the error by stating that it was purely a wrong entry made since the birth certificate which was issued at the earliest point of time clearly shows the date of birth of the petitioner as 15.02.1957. Thereafter, there was no response from the respondents. Therefore, the petitioner had submitted yet another representation dated 22.08.2014 asking the respondents to inform the stage at which her request was now pending. By an reply dated 24.09.2014, the second respondent had informed the petitioner that her request to alter the date of birth could not be complied with. However, no reasons were given. The petitioner therefore gave yet another representation on 21.11.2014 to consider the request based on the document that had been filed by the petitioner in support of her case.



W.P.No.16425 of 2015

WEB COPY10. Meanwhile, it appears that by a communication dated 27.10.2014 addressed to the Commissioner of Revenue Administration (CRA), Government of Tamil Nadu, Chepauk, Chennai, the 2nd respondent had requested him to investigate the claim made by the petitioner and submitted a report. Pursuant to this communication, the Commissioner of Revenue Administration (CRA) has forwarded a letter to the respondent/University to produce the further particulars and documents. Therefore, the petitioner was addressed by the second respondent on 13.01.2015 to submit the documents as sought for by the Commissioner of Revenue Administration (CRA). The petitioner had also complied with the demand by reply dated 19.01.2015. On 09.02.2015, the Commissioner of Revenue Administration (CRA) had addressed a communication to the District Collector, Chennai to conduct an enquiry regarding the correctness of her date of birth certificate and to forward a report to the University. The District Collector had conducted an enquiry on 10.03.2015, the petitioner was directed to attend the enquiry with all the original documents on 17.03.2015 and the petitioner has also attended the enquiry. The petitioner's siblings were also duly enquired and records from the schools where the petitioner studied was also called for. The



W.P.No.16425 of 2015

petitioner was also called before the Commissioner of Revenue Administration (CRA) where a detailed statement was recorded on 13.05.2015.

11. The Commissioner of Revenue Administration (CRA) had forwarded the investigation report to the University stating that the petitioner was eligible for alternation of her date of birth from 15.05.1955 to 15.02.1957. However, surprise and shock of the petitioner, she has received a communication dated 29.05.2015 stating that she was permitted to retire from service with effect from 31.05.2015 afternoon on attaining the age of superannuation and that she is permitted to continue till the end of the Academic Year i.e., 30.06.2015. The respondents did not act upon the investigation report dated 13.05.2015 of the Central Revenue Administration (CRA) recommending the alteration of her date of birth. Therefore, the petitioner has come forward to challenge the communication directing her to retired from service stating that she had another two years to retire when calculated from the date of her birth.

RESPONDENT'S CASE:-



W.P.No.16425 of 2015

12. The respondents had filed a counter affidavit *inter alia* contending that the entry of the petitioner's birth was made on the basis of the SSLC book produced by the petitioner. The petitioner had thereafter on 23.09.1987 requested the alteration of her date of birth along with his communication, she had enclosed a copy of her birth extract. Since the request was received within five years, the petitioner was asked to alter her date of birth first in the SSLC book and the Directorate of Collegiate Education and thereafter approach the University. The Directorate of School Education by its letter dated 14.04.1988 had stated that the change of her date of birth cannot be effected in the SSLC book and this order has not been challenged by the petitioner.

13. The respondent would further submit that the normal procedure was to accept the date of birth as given in the SSLC book and not to rely on the birth certificate. In the counter affidavit, the second respondent had set out the procedure for alteration of the date of birth as provided in Statue 7(b) of Chapter IX of the University Calendar (Volume – 1). The very first Clause i.e., Clause (i) is that once an application is received from teacher for alteration of date of birth, the application shall be accompanied by evidence



W.P.No.16425 of 2015

on which he/she relies upon and explaining the reason for the mistake. The application is then forwarded to the Board of Revenue for a report after investigation by an officer not below the rank of Deputy Collector and on the receipt of the report the appointing authority shall decide whether the alteration of date of birth may be permitted or the application rejected. Such an application for alteration would be entertained only five years of the appointment into the university. If the application is after five years and not supported by the documents, the same shall be summarily rejected.

14. It is the further contention of the respondent that the petitioner's explanation for the mistake that had occurred in her date of birth was that she had not noticed the wrong entry in the SSLC book and that she had noticed it only when she had applied for research after completing M.Phil., in 1980. This would mean that the petitioner would have completed SSLC at 14 years if her date of birth is taken as 15.02.1997.

15. The respondent further submitted that after the report was received from the Commissioner of Revenue Administration (CRA), the same was



W.P.No.16425 of 2015

placed before the Syndicate and the Syndicate in Circulation dated 20.05.2015 resolved that the petitioner's request was not feasible for compliance. This was also intimated to the petitioner. The respondent would further submit that the Syndicate being the Supreme body which has the power to take into consideration the circumstances as to the applicant's service conditions including alteration of age. The syndicate analysed the request and considered the impact that the alteration would have on the service conditions of other teachers in services. It is only after analyzing all this that the alteration of date of birth is permitted. In the case of the petitioner also such an exercise has been undertaken and thereafter the syndicate had resolved that it was not feasible to alter her date of birth.

16. The respondent would also deny the other allegations of the petitioner as totally false. The respondent would further submit that the petitioner's request to continue in service would not prejudice the interest of others is totally incorrect. One Dr.B.Anand, Assistant Professor and Head in-charge working in the Department of Pharmacology and Environmental Toxicology, University of Madras would be effected. Therefore, in the light of the resolution passed by the Syndicate, the respondent would submit that



W.P.No.16425 of 2015

the writ petition has to fail.

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SUBMISSIONS:-

17. The learned counsel appearing on behalf of the petitioner would argue that the petitioner has approached her appointing authority namely the respondents within a year of her appointment. The regulations provide that an application for correction of her date of birth has to be made within a period of five years of entry into service. The petitioner has made it immediately. He would submit that though the regulations stipulates that the application has to be forwarded to the board of revenue, the respondents have directed the petitioner to effect the corrections in their SSLC book and before the Collegiate Education.

18. The rejection of her request on 14.04.1988 by the aforesaid authorities was immediately informed to the respondents and a copy of the report was also marked to them. However, the respondents have not taken any steps to forward the petitioner's application to the Board of revenue. He further submitted that the petitioner cannot be found fault, as it was the inaction on the part of the respondents that has caused the delay. He would



W.P.No.16425 of 2015

further argue that the Commissioner of Revenue Administration (CRA) has conducted an enquiry and submitted a report that the petitioner is born only on 15.02.1957 and not on 15.05.1955, as shown in the SSLC book.

19. The learned Senior Counsel for the petitioner would further submit that the respondents have contended that the majority of the members of the Syndicate have not approved the resolution for not accepting the petitioner's request for alteration of the date. He would rely upon the Judgment of this Court in the case of ***K.Chandrasekaran Vs. The Principal Secretary to Government, Home Department, Secretariat, Fort St.George, Chennai – 100 009 and others*** in W.P.No.32142 of 2018 vide order dated 04.01.2019, where the facts are identical. Ultimately, this Court had directed the respondents to alter the petitioner's date of birth in the Service Register and all connected records, within a stipulated time period and relied upon the another Judgment in the case of ***J.Ganesan Vs. The Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, Fort St.George, Chennai – 600 009*** in W.P.No.9697 of 2020 vide order dated 28.07.2021 would drawn attention of this Court, Para 18 therein and another unreported judgment in



W.P.No.16425 of 2015

W.P.No.18499 of 2016 in paragraph Nos.7 and 12 therein to contend how the Commissioner of Revenue Administration has to conduct an enquiry. He would sum up stating that the petitioner had approached the authority without much delay and also produced the birth certificate and this date of birth has been confirmed by the Commissioner of Revenue Administration despite which the petitioner's request has been turned down. Therefore, the writ petition ought to be allowed.

20. Per contra, the learned counsel appearing for the respondent Ms.Sudha would submit that the petitioner approached the authority for alteration of the date of birth after a considerable delay. She would submit that as early as 1988, the Directorate of school Education and Collegiate Education had refused to alter the date of birth and the said order has not been challenged. The petitioner has kept quiet till 12/2012 and at the fag end of her career she has come forward with an application and therefore the same cannot be entertained. The Syndicate has taken note of this fact and therefore the members have rejected the request. She would rely upon the judgment of this Court in the case of ***E.R.Sankaran Vs. Mettur Government Servants Co-operative Stores, Limited (by its President) and another***



W.P.No.16425 of 2015

reported in 2000 (4) L.L.N. 640 and an unreported judgement of the Division Bench of this Court in the case of ***Sundaramurthy Vs. The Chief Secretary, Union of India, Government of Puducherry, Puducherry, Puducherry and others*** in W.P.No.24989 of 2015 vide order dated 13.08.2015 in support of her contention that a person who seeks to redress a grievance should do it at the earliest and if the same is made after a delay he is not entitled to the relief.

21. Heard the learned counsel on either side and perused the materials available on record.

DISCUSSION:-

22. Pursuant to the directions of this Court, the original minutes of the Syndicate was produced to this Court. The petitioner's case is that she had made an application for alteration of her date of birth within a few months of her being appointed as she has made a representation. This is in tune with the regulations provided in Chapter IX of the Statutes and Ordinances of the first respondent.

23. Clause 7(b) reads as under:-

7 (b) Alteration of Date of Birth: (i) If, at the time of



W.P.No.16425 of 2015

appointment, a teacher claims that the date of his birth is different from that entered in his SSLC or Matriculation Register or School records, he shall make an application to the University of Madras furnishing the evidence on which he relies upon and explaining how the mistake occurred. The application shall be forwarded to the Board of Revenue for report after investigation by an officer not below the rank of Deputy Collector and on receipt of the report, the appointing authority shall decide whether the alteration of date of birth may be permitted or the application may be rejected.

(ii) Provided that in the case of candidate who was born outside the State of Tamil Nadu, the investigation through the Board of Revenue shall be dispensed with, and the appointing authority shall examine and scrutinise the records that may be produced by the teacher and shall decide whether the alteration of date of birth may be permitted or the application may be rejected. The decision of the Syndicate is final.

(iii) After a teacher has entered into service, an application to alter the date of his birth as already entered in the official records shall be entertained only if such an application is made within five years of such entry into University service.

(iv) Any application received after five years after entry



W.P.No.16425 of 2015

into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected.

(v) In considering the question of permitting an alteration on the date of birth as entered in the official records even when such entry is proved to have been due to a bonafide mistake, the appointing authority shall take into consideration the circumstances whether the applicant would normally be eligible for appointment to the post at the time of entry into service, had his age been correctly stated and what would have been its effect on his service and the service conditions of other teachers in the University service and may permit the alteration subject to such condition as they or it may deem fit to impose.

24. Therefore from a reading of Clause 7(b)(i) it is clear that is is for the University to forward an application received from the employee to the Board of Revenue. The regulations do not speak about the corrections being effected in the SSLC or Matriculation registered school records.

25. Therefore, the respondents have faltered at the very first instance



W.P.No.16425 of 2015

by not forwarding the application to the proper Authority. Be that as it may, the Directorate of School Education and the Directorate of Collegiate Education have rejected the petitioner's request in the year 1988 and the respondents has been put on notice about the same. Even then the respondents have not moved a little finger to comply with the procedure contemplated in Clause 7(b)(i). Thereafter, in the year 2012, way before the petitioner was due to retire she had sent a reminder and it is only thereafter that the records have been forwarded to the Commissioner of Revenue Administration (CRA) for verification. A full fledged enquiry has been conducted where the siblings of the petitioner, the school and college records etc., have been perused by the Authorities and after considering the above had submitted a detailed report recommending the alteration of her birth certificate. This recommendations has been placed before the Syndicate. A perusal of the original records would show that the minutes have not been circulated to all the members. It is stated that there are 29 members. However, only the comments of some of them have been recorded which are set out herein below. One Amudavalli had made the following comment:-

“1.It is ridiculous and unethical that Dr.S.L.Maheswari has chosen to pursue the change of DOB a few days prior to her retirement.



W.P.No.16425 of 2015

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2.It is unfortunate that this agenda was not placed in any of the last Syndicate meetings, including that of the last held on 15.05.2015, but shortly being sent for circulation.

3. I wonder why this matter is taken up and treated in a hurried manner raising many questions and concern such as that of as under mentioned:

(i)There is no clarity and is very vague regarding the submission of evidence and explanation by Dr.SL.Maheswari to University. If so, why not circulated as stated in the agenda.

(ii) There is a procedural violation in the whole issue as any change of DOB should have been resolved within five years of the faculty.

(iii)The matter under consideration is illegal, immoral and violates all administrative norms.

(iv)Established convention in this Country is to follow SSLC records to determine DOB. No other agency is authorised to recommend or direct any change in DOB unless duly modified in SSLC records.

(v)There is a Supreme Court judgement Gen VK Singh Vs Govt of India 2011 and Supreme Court has categorically stated that SSLC/High School records could only determine DOB of any employee. Any subsequent or different DB mentioned in any other records would not be considered.

(vi)Why this item was not placed before T&R Committee is a matter of concern.



W.P.No.16425 of 2015

WEB COPY

(vii) *It is not clear on what basis/record/s the Commissioner, Revenue Department, Govt. of Tamil Nadu has and could recommend to University of Madras, an autonomous body to alter the change of DOB.*

(viii) *Whether University is bound with such recommendation??*

(ix) *It also makes a mockery of administrative rules and regulations demonstrating the possible manipulations in different government agencies.*

(x) *If this kind of flawed request is entertained then it will open Pandora s box of many such demands.*

(xi) *Your communication says it is Agenda as well as Minutes. How can an Agenda be also accompanied by Minutes together which is inappropriate.*

(xii) *Inclusion of Resolution under the heading 'Provisional Minutes' seems to be forcing/demanding the Members to accept rather than seeking consideration for approval.*

(ii) Dr.Thangam Menon:-

The issue in this case is not about authenticity of her claim that her actual DOB is 15/2/57, which has been verified by Commissioner of Revenue Administration, Govt of Tamil Nadu and found to be correct, but whether the procedures prescribed by our statute have been followed particularly the time limit (within 5 years of entry into



W.P.No.16425 of 2015

service) for making such an application.

The first two paragraphs of the note lack clarity and have no details such as the date on which she made the application to the University of Madras and whether the record of the same is available in the University. It states that she was asked to approach the Director of Collegiate Education (did the University give her such a direction in writing?) and the next line states that she got a reply from Director of School Education. It is not clear why the University did not forward her request to the Board of Revenue at that time itself if she had made the request for correction to the University during the first five years of her service.

Considering that our service rules stipulate that an application for alteration/correction of date of birth should be submitted to the appointing authority at the time of joining service or within a period of five years thereafter, a decision in this matter cannot be taken without the production of documents which confirm that Dr SL Maheswari had indeed made such an application to the university.

In view of the ambiguity of some of the statements, lack of information regarding her date of application and copies



W.P.No.16425 of 2015

of supporting documents, it is extremely difficult to approve or consider this item "in- circulation" and I request that the matter be included as an agenda in the next syndicate meeting with all relevant details and documents so as to enable the members to take a decision after a full fledged discussion."

(iii) Prof.C.M.K.Reddy:-

It is well known that proper administration of justice requires thorough discussion of pros and cons of the subject in open meeting, so that a reasonable consensus could be arrived. Since the present decision of the University was based on the desent note by few members, I strongly feel it does not reflect the opinion of the majority members of the august body.

Further, it is not in the best interest of the University, we over rule the recommendation by the Government agencies, which came after thorough in depth enquiry into the matter at various levels.

Hence I request you to kindly bring back the subject to the next Syndicate meeting for an open discussion and for a considered decision, which will be binding on all concerned, including any possible legal scrutiny at a later date."



W.P.No.16425 of 2015

WEB COPY

26. Three of them had sought for the matter to be placed before the next Syndicate Meeting where it could be discussed and a decision which could all be taken. Three others have opined otherwise. They are S.Sriman Narayan, P.Kandasamy and G.Ravindran. Their note would indicate that since the request for change is not made within five years it cannot be made.

27. The original minutes that has been forwarded for circulation on 20.05.2015 and the proviso and Minutes reads as follows:

“Resolved that the recommendation of the Commissioner of Revenue Administration Government of Tamil Nadu, Chepauk, Chennai – 05 to alter the date of birth of Dr.S.L.Maheswari, Professor, Department of Pharmacology and Environmental Toxicology, University of Madras, Taramani Campus from 15.04.1955 to 15.02.1957 be accepted and her date of birth be changed as 15.02.1957.”

28. Thereafter, by letter dated 29.05.2015 of the Registrar, University of Madras, has sent the following letter to the Members of the Syndicate.



W.P.No.16425 of 2015

“The Provisional Minutes of the Syndicate in Circulation dated 20th May 2015 has been forwarded to the members, cited under reference, with a request to the members to forward their remarks, corrections/ommissions, if any in the minutes on or before 28.05.2015. Accordingly, certain members of the Syndicate have forwarded their remarks.

Taking into consideration of these remarks, I am, by direction, to inform you that certain corrections/additions/deletions have now been made, as given below, in the following resolution of the Agenda items of the Minutes.

The note of the resolution for the minutes of the item no.127 (Agenda 1) be modified and reads as follows:-

RESOLVED that the request of Dr.S.L.Maheswari, Professor, Department of Pharmacology and Environmental Toxicology, University of Madras, Taramani Campus for change of date of birth is not feasible of compliance.

The members of the Syndicate are requested to kindly note the change in the note of the minutes for the above item.”

There is nothing to show as to whether the amended resolution was circulated to the other members of the syndicate and whether they had approved the



W.P.No.16425 of 2015

provisional minutes or the modified minutes. The modified minutes has been approved on the very same date that it had been modified and could therefore not have been circulated.

29. The decision to retire the petitioner as per the date of birth given in their SSLC book had been taken in great haste. The report of the CRA which has been passed after a thorough investigation has not been taken into consideration and there is nothing to show as to why it has not been taken into consideration, particularly, when two of the syndicate members have referred to it and stated that the same requires to be discussed and deliberated. The only plea that has been raised by the respondents is that the petitioner has come to Court at the nth hour. This contention has to be rejected in the light of the fact that as soon as she had been appointed the petitioner has taken out an application for altering her date of birth and has followed it up sincerely. She has renewed her request well before the date of her retirement and the report of the CRA has also been received before the date of the petitioner's retirement.

30. Considering the fact that the judgments which have been relied upon



W.P.No.16425 of 2015

by the petitioner may not apply to the facts of the case, as there is no delay on the part of the petitioner in making an application for appointing an authority and approaching this Court the same are rejected as not applicable to the facts of the case.

31. Therefore, when the birth certificate issued by the Registration Department shows the correct date of birth and the report of the Commissioner of Revenue Administration (CRA) which has been tabled after a thorough investigation also confirms the date of birth of the petitioner as shown in the birth certificate there is no reason why the same cannot be relied upon. No doubt, the petitioner has superannuated. However, the petitioner as soon as she got it through employment and much before her date of retirement have been approaching the respondents to decided on the alteration of her date of birth. Further all the syndicate members have not backed the resolution and the respondents have not considered the request of three of the syndicate members to place the resolution before the next syndicate meeting for deliberation. All of which would highlight that the decision was taken in haste. The impugned order based on this resolution cannot be relied upon and is accordingly set aside.



W.P.No.16425 of 2015

WEB COPY

32. Accordingly, this Writ Petition is allowed as prayed for. No costs.

01.07.2024

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Internet : Yes / No
Speaking Order / Non-Speaking Order
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To

1.The Vice Chancellor,
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Centenary Building,
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2.The Registrar,
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P.T.ASHA, J.

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W.P.No.16425 of 2015

W.P.No.16425 of 2015

01.07.2024