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W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :25.06.2024

ORDERS PRONOUNCED ON : 10.07.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024
and W.M.P.Nos.17066, 17272, 17429, 10000, 8085, 8086, 7683,
7684 & 7685 of 2024

W.P.No.15665 of 2024:

Dr.K.Thamizharasan

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu
Department of Higher Education
Fort St.George
Chennai – 600 009.

2.The Director of Collegiate Education
Directorate of Collegiate Education
Saidapet, Chennai – 600 015.

3.The Regional Director of Collegiate Education
Directorate of Collegiate Education
Saidapet, Chennai – 600 015.

4.Theagaraya Chetty Educational Institutions
Sir Theagaraya College Committee
Rep.by its Secretary



W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024

Old No.345, New No.1047

T.H.Road

Old Washermenpet

Chennai – 600 021.

5.The Secretary & Correspondent
Theagaraya Chetty Educational Institution
Sir Theagaraya College Committee
Chennai – 600 021.

Respondents

...

W.P.No.15846 of 2024:

Dr.S.Mahadevan

... Petitioner

Vs.

1.The Secretary
Government of Tamil Nadu
Department of Higher Education
Fort St.George
Chennai – 600 009.

2.The Director of Collegiate Education
Saidapet, Chennai – 600 015.

3.The Joint Director of Collegiate Education
(Chennai Region)
Saidapet, Chennai – 600 015.

4.The College Committee
Rep.by its Secretary
Sir Theagaraya College
Old No.345, New No.1047
T.H.Road, Old Washermenpet
Chennai – 600 021.



W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024

5.Chiranjeevi Matcha

Secretary

The College Committee for Sir Theagaraya College

Old No.345, New No.1047

T.H.Road, Old Washermenpet

Chennai – 600 021.

6.K.Thiyagarajan

Vice Principal

Sir Theagaraya College

Old No.345, New No.1047

T.H.Road, Old Washermenpet

Chennai – 600 021.

7.University of Madras

Rep.by its Registrar

Chepauk, Chennai – 600 005.

... Respondents

W.P.No.15966 of 2024:

V.Kavitha

... Petitioner

Vs.

1.The Secretary

Government of Tamil Nadu

Department of Higher Education

Fort St.George

Chennai – 600 009.

2.The Director of Collegiate Education

Saidapet, Chennai – 600 015.

3.The Joint Director of Collegiate Education

(Chennai Region)

Saidapet, Chennai – 600 015.



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4.The College Committee
Rep.by its Secretary
Sir Theagaraya College
Old No.345, New No.1047
T.H.Road, Old Washermenpet
Chennai – 600 021.

5.Chiranjeevi Matcha
Secretary
The College Committee for Sir Theagaraya College
Old No.345, New No.1047
T.H.Road, Old Washermenpet
Chennai – 600 021.

6.K.Thiyagarajan
Vice Principal
Sir Theagaraya College
Old No.345, New No.1047
T.H.Road, Old Washermenpet
Chennai – 600 021.
Respondents

...

W.P.No.7241 of 2024:

Dr.K.Thamizharasan

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu
Department of Higher Education
Fort St.George
Chennai – 600 009.

2.The Director of Collegiate Education
DPI Campus
EVK Sampath Maligai
College Road, Chennai – 600 006.



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3.The Joint Director of Collegiate Education
(Chennai region)
Saidapet, Chennai – 600 015.

4.Theagaraya Chetty Educational Institutions
Sir Theagaraya College Committee
Rep.by its Secretary
Old No.345, New No.1047
T.H.Road
Old Washermenpet
Chennai – 600 021.

5.The Secretary & Correspondent
Theagaraya Chetty Educational Institution
Sir Theagaraya College Committee
Chennai – 600 021.

6.Dr.P.Senthilkumar

7.The Registrar
University of Madras
Chepauk
Chennai – 600 005.

8.University Grants Commission
Rep.by its Secretary
New Delhi.

9.Dr.P.Sudhakar

10.Dr.D.Rajasekar

11.Dr.G.Bhaskaran

12.Dr.M.Thenmozhi

13.Dr.M.G.Ragunathan

14.Dr.M.Suresh Gandhi

15.Dr.B.Devamaindhan



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16.Dr.S.Chinnammai

... Respondents

W.P.No.6880 of 2024:

Kavitha

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu
Department of Higher Education
Fort St.George
Chennai – 600 009.

2.The Director of Collegiate Education
DPI Campus
EVK Sampath Maligai
College Road, Chennai – 600 006.

3.The Joint Director of Collegiate Education
(Chennai region)
Saidapet, Chennai – 600 015.

4.Theagaraya Chetty Educational Institutions
Sir Theagaraya College Committee
Rep.by its Secretary
Old No.345, New No.1047
T.H.Road
Old Washermenpet
Chennai – 600 021.

5.The Secretary & Correspondent
Theagaraya Chetty Educational Institution
Sir Theagaraya College Committee
Chennai – 600 021.

6.Dr.P.Senthilkumar



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7.The Registrar
University of Madras
Chepauk
Chennai – 600 005.

8.University Grants Commission
Rep.by its Secretary
New Delhi.

... Respondents

PRAYER in W.P.No.15665 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 4th respondent pertaining to the impugned order of suspension dated 27.05.2024 and quash the same as illegal.

PRAYER in W.P.No.15846 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 27.05.2024 passed by the 4th respondent, quash the same and consequently direct the respondents 3 and 4 to reinstate the petitioner and to regularize the period of suspension from 27.05.2024 as duty with pay for all purposes and to pay salary and all other consequential benefits with interest for the said period, award costs.

PRAYER in W.P.No.15966 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 27.05.2024 passed by the 4th Respondent, quash the same and consequently direct the respondents 3



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and 4 to reinstate the petitioner and to regularize the period of suspension from 27.05.2024 as duty with pay for all purposes and to pay him salary and all other consequential benefits with interest for the said period, award costs.

PRAYER in W.P.No.7241 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the second selection committee dated 18.06.2022 of the respondents No.9 to 16 and quash the same as illegal and direct the respondents 4 & 5 to appoint the petitioner as Principal of the 4th respondent's college with effect from the date of the order of this Court dated 15.11.2021 made in W.P.No.15246/2018 and to permit the petitioner to complete the tenure for the post of Principal with all consequential and attendant benefits.

PRAYER in W.P.No.7241 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second selection committee dated 18.06.2022 of the respondents No.9 to 16 and quash the same as illegal and direct the respondents 4 and 5 to appoint the petitioner as principal of the 4th respondents college with effect from the date of the order of this Honourable court dated 15.11.2021 made in W.P. No.15246/2018 and to permit the petitioner to complete the tenure for the post of principal with all consequential and attendant benefits.

PRAYER in W.P.No.6880 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus,



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calling for the records pursuant to the impugned circular dated 01.02.2024 calling for the applicants to the post of the principal on the file of the 4th respondent college and quash the same and direct the 4th respondent college committee to comply with the directions dated 15.11.2021 issued in W.P. No.15246 of 2018 in respect of the selection of the Principal.

In W.P.Nos.15665, 7241 and 6880 of 2024:-

For the petitioner : Mr.Xavier Arul Raj
Senior Counsel
for Ms.A.Arulmozhi

In W.P.Nos.15846 and 15966 of 2024:-

For the petitioner : Ms.R.Vaigai
Senior Counsel
for Mr.V.Ajoy Khose

In all the Writ Petitions:-

For the respondents : Mr.R.Kumaravel
Additional Government Pleader
for RR1 to 3
Mr.B.Ravi for RR4 & 5
Ms.V.Sudha
Standing Counsel for R7
Mr.B.Rabu Manohar
SCGC for R8



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COMMON ORDER

The factual matrix of all these five cases requires that the same be dealt with together and as such are heard together and disposed of by this common order.

1: W.P.No.7241 of 2024

1.1 This Writ Petition is filed challenging the records of the selection committee dated 18.06.2022 and to quash the same and consequently direct the respondents 4 and 5 to appoint the petitioner as the Principal of the 4th respondent College with effect from the date of the earlier order of this Court in W.P.No.15246 of 2018 dated 15.11.2021.

1.2 The petitioner's case is that the 4th respondent is an aided Institution. The petitioner *Dr K. Tamizharasan*, has been working as the Head of the Department of Physics in the 4th respondent - College, for the past 34 years. While so, in the year 2018, the respondents 4 and 5 issued a notification on 21.04.2018 calling for applications through direct recruitment to the post of Principal. As per the University Grants Commission's



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regulations, the minimum required qualifications are a postgraduate degree with 55 % marks, a minimum Academic Performance Indicator (API) score of 400 and 15 years of teaching experience. Since the petitioner possessed all these qualifications, he applied for the post. As per the assessment of the petitioner, he possesses an API score of 583.5.

1.3 The 6th respondent – *Dr P.Senthilkumar* also applied to the said post. The 6th respondent who was also serving in the same Institution was junior to the petitioner, both in service as well as experience as a Head of the Department. Pursuant to the applications, an interview was conducted on 02.06.2018. In the interregnum when the incumbent Principal retired from service, the petitioner being the senior most Professor in the 4th respondent College was made as the Principal-in-charge. However, the 6th respondent was selected and appointed as Principal and the petitioner was relieved from being in-charge Principal with effect from 09.06.2018.

1.4 The petitioner filed W.P.No.15246 of 2018 challenging the selection of the 6th respondent. After hearing all concerned, this Court found



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that there was a serious flaw in the manner in which the API scores were assessed. The Court further observed that the selection committee being the body of the experts should have assessed the API score based on a performance based appraisal system as set out in the UGC regulations, Table 1 to 9 of Appendix – III. Given the above-mentioned findings, this Court allowed the Writ Petition by an order dated 15.11.2021 on the following terms:-

“49. Therefore, this Writ Petition stands allowed with the following directions / observations:-

i. The eighth respondent, Registrar of Madras University shall furnish names of new experts to the third and fourth respondents college to constitute a new Selection Committee, within a period of Thirty (30) days from the date of receipt of a copy of this order.

ii. Meeting of the new Selection Committee shall be fixed by the fourth respondent preferably within a period of Fifteen (15) days thereafter after ascertaining convenience of the respective experts.

iii. The fourth respondent shall also simultaneously intimate the date of the proposed interview to the petitioner and the fifth respondent before the Selection Committee.

iv. Both the petitioner and the fifth respondent shall attend the interview before the Selection Committee on the date fixed for interview.

v. The Selection Committee shall interview and evaluate the API Scores of the petitioner and the fifth respondent in accordance with the UGC Guidelines in force and give their recommendations on the same date of the meeting / interview.

vi. The third/fourth respondent shall declare the



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results of the interview immediately based on the recommendation of the aforesaid Selection Committee.

vii. In case, the name of the fifth respondent is recommended, the fifth respondent shall be allowed to complete the term of five years from the date of his initial appointment.

viii. In case, the petitioner is found suitable based on the recommendation of the aforesaid Selection Committee, the petitioner shall be appointed as the Principal of the fourth respondent college for the term of 5 years or such other terms as per the UGC Guidelines and relevant Rules / Regulations.

ix. It is made clear that the entire exercise shall be carried out by the eighth respondent and the fourth respondent, within a period of Fifty (50) days from the date of receipt of a copy of this order.

x. During the interregnum, the fifth respondent shall continue to be the Principal in-charge of the fourth respondent college till the above exercise is carried out and shall refrain from taking any important policy, administrative and financial decision of the fourth respondent college.

xi. No cost. Consequently, connected Miscellaneous Petitions are closed.”

1.5 As against the said order, the Management had filed a Writ Appeal in W.A.No.2930 of 2021 and an interim order of *status quo* was initially granted on 13.12.2021. Thereafter, the 6th respondent also filed W.A.No.69 of 2022. When the matters were taken up for hearing, the Division Bench of this Court by way of an interim order dated 19.04.2022 directed for the constitution of a new committee, for the evaluation of API scores and directed the 4th and 5th respondents to submit the results of the



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selection committee before this Court. The relevant portion is extracted hereunder:-

“2. The limited grievance was that the selection process should be conducted as per the UGC norms. However, the Selection Committee had referred the evaluation of Academic Performance Indicator, to an external expert, which is stated to be contrary to the UGC Regulations. It is now submitted that a fresh Committee will be constituted in compliance of the UGC norms. In view of the same, the following directions are issued:-

a. The Institution shall forward the request to the Registrar of University, within a period of ten days. from the date of receipt of a copy of this order, for constituting a panel of experts.

b. The Registrar, in turn, shall circulate the name of the expert panel to the Institution, within a further period of ten days, from the date of receipt of such request.

c. The experts from the panel will be selected by the Institution and the Expert Committee formed shall be intimated, within a further period of ten days.

d. Thereafter, the Selection Committee shall complete the process of evaluation of Academic Performance Indicator, within a further period of ten days.

e. On completion of the same, the results shall be produced before this Court in a sealed cover. 3. Post on 20/6/2022.”

1.6. The report was thereafter submitted before this Court on 10.08.2023 and a copy was served on the petitioner. The expert committee had given its final scores to the petitioner as well as the 6th respondent. It had given its scores on three categories, viz.,



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Category I: Teaching, Learning and Evaluation related activities, for

which there is a maximum mark of 95. Both the petitioner as well as the 6th respondent were awarded 80 marks each;

Category II: Professional development, Co-curricular and Extension activities, under the said category, the 6th respondent was given 45 marks and the petitioner was given 30 marks;

Category III: Research and Academic Contributions, under which after calculating the API scores, the 6th respondent was awarded 700.25 marks, while the petitioner was awarded 282.98 marks. Thus, the total marks stood as 825.25 in respect of the 6th respondent and 392.98 for the petitioner.

1.7. Aggrieved by the report of the selection committee, the petitioner herein filed C.M.P.No.19701 of 2023 in W.A.No.2930 of 2021, praying to implead the selection committee members and pleaded about the flaws in the report. At that stage, when the matter came up for hearing on 19.02.2024 the appellants in W.A.Nos.2930 of 2021 and 69 of 2022 filed memos seeking to not press their appeals, as even the 2nd committee which is



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constituted by way of an interim order of this Court has confirmed its earlier decision to appoint the 6th respondent as the Principal. By a Judgment dated 29.02.2024, the memos seeking to withdraw the Writ Appeals and the objections made on behalf of the petitioner herein were considered by this Court and the following order was passed, permitting the appellants therein to withdraw their respective appeals:-

“8. Since ultimately the respective appellants had sought permission of this Court to record the memos and to permit the appellants to withdraw the respective writ appeals and in the reply memos filed by the first respondent in both the appeals he has also stated that the reply memos also be recorded and thereafter the writ appeals can be permitted to be withdrawn, recording the same, we are inclined to permit the appellants in both the cases respectively to withdraw the respective appeals.

9. Accordingly, both the appeals are dismissed as withdrawn. No costs. Consequently, connected miscellaneous petitions are also dismissed. It is made clear that withdrawal of these appeals would not prejudice the rights of the respective parties, both the appellants as well as the respondents in both the appeals in view of the development that has taken place during the pendency of the writ appeals.”

1.8. Thereafter, under the 2nd expert committee's report, the 4th respondent – College continued the appointment of the 6th respondent as the Principal. Therefore, the petitioner challenges the report of the 2nd experts' committee by way of the present Writ Petition.



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1.9. The facts after the filing of the Writ Petition are that the 6th respondent worked in the post of Principal and retired from service upon attaining the age of superannuation with effect from 30.05.2024.

1.10. Heard, *Mr Xavier Arul Raj*, the learned Senior Counsel appearing on behalf of the petitioner; *Mr R.Kumaravel*, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3; *Mr B.Ravi*, the learned counsel appearing on behalf of the respondents 4 and 5; *Ms V.Sudha*, learned Standing Counsel appearing on behalf of the 7th respondent and *Mr B.Rabu Manohar*, the learned Senior Central Government Standing Counsel appearing on behalf of the 8th respondent.

1.11. *Mr.Xavier Arul Raj*, the learned Senior Counsel appearing on behalf of the petitioner firstly by taking this Court to the earlier order of the learned Single Judge would submit that already this Court had found that while giving scores under various heads, the earlier selection committee had erred. When the matter was remitted back for fresh consideration to constitute



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the 2nd expert committee, the 2nd expert committee was expected to objectively assess the scores of both the petitioner and the 6th respondent, strictly as per the rules. He would submit that the notification for selection to the present post was made on 21.04.2018 and the qualifications as well as the selection procedure etc., which were prevalent as of that date would apply to the case.

1.12. According to the learned Senior Counsel, the UGC regulations on minimum qualifications for appointment of Professors and other academic staff in Universities and Colleges and measures for maintenance of standards in higher education, 2010 as amended from time to time, which includes the 4th amendment of 2016, made vide notification dated 11.07.2016 is the relevant and applicable rule. As per the said rules, the method of calculation for Category III, i.e., Research and Academic Contributions is mentioned in the Appendix.3, Table-I. According to him, regarding the API scores, in respect of research papers published in refereed journals as notified by the UGC, the maximum score for the University/College Professors is 25 per paper publication and concerning other reputed journals, the mark is 10 per paper publication. The manner awarding of this score is also contained in the



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Regulations which mandates calculation of the same by taking into account the impact factor. The Regulations further mandate that if the impact factor of the research paper is less than 1, then 5 points has to be given and if it is between 1 and 2, 10 points to be given. If it is 2 and 5, then 15 points are to be given and for papers with an impact factor between 5 and 10, 20 points have to be given and papers above an impact factor of 10, should be awarded 25 points, also if the paper is by way of joint authorship, the 1st author would take 70 % and if there is more than one 1st author, they will share the 70 %. Similarly, the 2nd author other than the 1st Author/Principal/Corresponding/Supervisor/Mentor would take the remaining 30 %. If there are more than one-second authors, they will share among themselves the 30 %. Pointing out the marks, which are now given by the 2nd expert committee, he would submit that irrespective of the impact factor, the selection committee has given 25 marks per refereed journal and 10 marks each for other journals and had only apportioned as per the first authorship or otherwise and arrived at the final scores. According to him, the same is directly contrary to the regulations.



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1.13. He would further submit that even in Category III, a high score of 147.50 is awarded to *Dr.Senthilkumar* . According to the learned Senior Counsel, awarding of marks under the category of fellowship award / awards to the *Dr.Senthilkumar* including under the head - International and National lectures is absolutely bogus. The said *Dr.Senthilkumar* is not a fellow of any College or reputed Institution. The meaning of the fellowship is wrongly ascertained as if it would mean a membership of a Society. An individual can become a member of any Society or Organisation by paying the entry fees. Such membership etc., cannot be deemed to be fellowships. Fellowships are there in some of the reputed Institutions or Organisations where in recognition of academic excellence, persons are invited to be the fellows of the Organisation or a particular scheme/programme and the same alone should be considered for awarding of marks. Similarly, when a candidate voluntarily applies for any conference or national / International conference and participates in the same, the same cannot be treated as invited lectures / invited papers presented. Therefore, he would submit that the entire 147.50 marks which is given to *Dr.Senthilkumar* is irregular. He would also point out the original self assessed scores submitted by the candidates and the



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original scores awarded by the 1st expert committee and the original scores awarded by the 2nd expert committee greatly differ from one another. He would submit that when the 2nd expert committee was directed to consider the scores strictly as per the regulations, the report of the 2nd committee was perverse. Therefore, he would submit that the same requires interference by this Court.

1.14. Per contra, *Mr B.Ravi*, the learned counsel appearing on behalf of the 4th respondent – College would submit that when the learned Single Judge earlier allowed the Writ Petition, the 4th respondent- College aggrieved by the same had filed an appeal. However, when pending the appeal, an interim order was granted to constitute a new expert committee and the expert committee had given its report which only re-confirmed the earlier selection, i.e., the selection of the 6th respondent over and above the petitioner, the 4th respondent – College has withdrawn the appeal and consequently the 6th respondent was appointed to the post of Principal and he has also worked and retired from service.



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1.15. According to him, the arguments of the learned Senior Counsel appearing for the petitioner are nothing but hyper-technical. The committee had made a fair assessment in respect of Category I concerning the marks for direct teaching, examination duties, innovative teaching etc., and both the candidates have scored equally. In respect to professional development also, as far as the contribution to the student-related co-curricular extension and field-based activities, both candidates have scored equal. Similarly, about the corporate life and management of the department and the Institution through participation in academic and other administrative committees, both the candidates equally scored 15 marks. Since the petitioner had not participated in conferences, seminars, etc., while the 15 marks were given to *Dr.Senthilkumar*, the same was not given to the petitioner. Thus, in Category II, i.e., with reference to professional development, co-curricular and extension activities, while the 6th respondent *Dr.Senthilkumar* had scored 45 marks, the petitioner only scored 30 marks. As far as the research and academic contribution is concerned, he would submit that as far as the sub-category (a), the expert committee has gone as per the Table only. For both the candidates, the committee has gone on the same footing, i.e., irrespective



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of the impact factor, 25 marks per publication has been given in respect of publication in refereed journals as notified by UGC and 10 marks per publication in respect of other reputed journals has been given. It can be seen that as far as the refereed journals are concerned, the 6th respondent has published 33 papers as 1st author and 1 paper as the other author. As far as the petitioner is concerned, he has published only 4 papers as the 1st author and 16 papers as the 2nd author. In respect of other reputed journals are concerned, the 6th respondent has published 21 Nos. as 1st author and 1 No. as other author. However, the petitioner has published only 15 Nos. as the 1st author and 12 Nos. as the other. Thus, by adopting the impact factor or otherwise, one can easily ascertain that the 6th respondent is more meritorious than the petitioner and when the expert committee has objectively assessed the various criteria on merits, it does not call for any interference by this Court. As far as category – E regarding the fellowship awards, conferences, and seminars are concerned, the committee has strictly gone by the UGC regulations and only upon the 6th respondent producing the evidence of participating in the seminar, conference, membership etc., marks have been given to him. Therefore, he would submit that the arguments of the learned



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Senior Counsel need not be accepted by this Court and since the candidate has subsequently been appointed and he has even superannuated from service, this Court should accept the report of the 2nd expert committee and dismiss the Writ Petition. He would plead that the Court exercising judicial review under Article 226 cannot substitute its view to that of the expert's view. The experts have been specifically constituted by the Court and not by the Management. In view thereof, he would pray that the Writ Petition be dismissed.

1.16. I have considered the rival submissions made on either side and perused the material records of the case.

1.17. Firstly, this is the second round of litigation. The rights of the parties are governed by the Judgment inter-parties in the first round in W.P.No.15246 of 2018 dated 15.11.2021. It can be seen that the Writ Appeals were filed and ultimately it was permitted to be withdrawn. The operative portion of the said order is extracted *supra* . This Court speaking through the Hon'ble Justice *C. Saravanan*, has categorically held that the



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selection committee shall evaluate the API score of the petitioner and the 6th respondent in accordance with the UGC guidelines in force and submit its recommendations. Thereupon, the result of the interview shall be declared. In case the name of the 6th respondent is recommended he will continue to complete his term as the Principal. In case, the petitioner herein is recommended, he shall be appointed for the term of 5 years as per the UGC guidelines. Therefore, the remit of this Court would be to consider whether or not, the 2nd selection committee has gone ahead to evaluate the API scores in accordance with the guidelines or not.

1.18. Even in the earlier round, the appointment of the 6th respondent was not specifically set aside. If only it is overturned, then the petitioner was directed to be prospectively appointed for 5 years. Therefore, now even if the petitioner is selected, the 6th respondent's appointment need not be disturbed and he has already worked and superannuated from service. If only the petitioner is found more meritorious, then the petitioner can be prospectively appointed for a period of 5 years from today or until the date on which he attains superannuation, whichever is earlier.



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1.19 Now, in this background, let us examine the correctness or otherwise of the procedure adopted by the selection committee. Even though reliance was placed on the subsequent regulations and the guidelines framed by the University, ultimately after detailed arguments, both sides learned counsel agreed that the regulations framed by the UGC on 30.06.2010 vide notification bearing No.F.1-2/2016 as amended from time to time, i.e., upto the 4th amendment dated 11.07.2016 is the relevant applicable rules. The rules contain a detailed selection procedure as well as the minimum qualifications and also the method of calculating the API scores. In the instant case, the method of selection adopted is by evaluating the candidates and by conducting an interview. As far as the interview is concerned, a maximum of 30 marks is awarded for the interview. Apart from the scores which are given under the Categories I, II and III as per the UGC guidelines, these 30 marks are also added to the total marks and the result has to be ascertained. The said procedure adopted by the 4th respondent – College is not questioned and as a matter of fact upheld in the earlier round. The petitioner has secured 10/30 in the interview and the 6th respondent has secured 14/30 in the interview and



there is no dispute with reference to the same.

1.20. Now as far as the calculation of API scores is concerned, the methodology is given in detail, in the aforesaid regulations, more specifically in the amendment dated 11.07.2016. As per the same, the scores are divided into three categories, i.e., Category – I – Teaching, Learning and Evaluation-related activities, for which the maximum scores were provided in respect of each sub-category and the same has been correctly adopted and evaluated by the committee. Next under Category - II Professional Development, Co-curricular and Extension activities in which also there are sub-categories (a) to (c) for which the maximum score is mentioned in the regulations and the same table is adopted by the committee and both the candidates were assessed and there is no grievance concerning the assessment in respect of Category – II. Category – III is related to Research and Academic Contributions. The entire dispute is about the same and therefore, the entire regulations and the table of calculation relating to Category – III is extracted hereunder for ready reference:-

“CATEGORY-III: RESEARCH AND ACADEMIC CONTRIBUTION



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Based on the teacher's self-assessment, API scores are proposed for research and academic contributions. The Minimum API scores required for teachers from this category are different for different levels of promotion in universities and colleges. The self-assessment score shall be based on verifiable records and shall be finalized by the screening cum evaluation committee for the promotion of Assistant Professor to higher grades and Selection Committee for the promotion of Assistant Professor to Associate Professor and Associate Professor to Professor and for direct recruitment of Associate Professor and Professor.

<i>Category</i>	<i>Activity</i>	<i>Faculty of Sciences/ Engineering/ Agriculture/ Medical/ Veterinary Sciences</i>	<i>Faculties of Languages/ Humanities/ Arts/ Social Sciences/ Library/ Physical education/ Management</i>	<i>Maximum score for University/ College teacher *</i>
III (A)	Research Papers published in:	Refereed Journals as notified by the UGC #	Refereed Journals as notified by the UGC #	25 per Publication
		Other Reputed Journals as notified by the UGC #	Other Reputed Journals as notified by the UGC #	10 per Publication
III (B)	Publications other than journal articles (books in books)	Text/Reference, Books published by International Publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	Text/Reference Books, published by International Publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	30 per Book for Single Author
		Subject Books, published by National level publishers, with ISBN/ISSN number or State / Central Govt. Publications as approved by the University and posted on its website. The List	Subject Books, published by National level publishers, with ISBN/ISSN number or State / Central Govt. Publications as approved by the University and posted on its website. The List	20 per Book for Single Author



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		will be intimated to UGC.	will be intimated to UGC.	
		Subject Books, published by Other local publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	Subject Books, published by Other local publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	15 per Book for Single Author
		Chapters in Books, published by National and International level publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	Chapters in Books, published by National and International level publishers, with ISBN/ISSN number as approved by the University and posted on its website. The List will be intimated to UGC.	International – 10 per Chapter National – 5 per Chapter
III (C)	RESEARCH PROJECTS			
III (C)(i)	Sponsored Projects	(a)Major Projects with grants above Rs.30 lakhs	Major Projects with grants above Rs.5 lakhs	20 per Project
		(b)Major Projects with grants above Rs.5 Lakhs up to Rs.30 lakhs	Major Projects with grants above Rs.3 Lakhs up to Rs.5 lakhs	15 per Project
		(c)Minor Projects with grants above Rs.1 lakh up to Rs.5 lakhs	Minor Projects with grants above Rs.1 lakh up to Rs.3 lakhs	10 per Project
III (C)(ii)	Consultancy Projects	Amount mobilized with a minimum of Rs.10 lakhs	Amount mobilized with a minimum of Rs.2 lakhs	10 for every Rs.10 lakhs and Rs.2 lakhs respectively
III (C)(iii)	Projects Outcome / Outputs	Patent / Technology transfer / Product /	Major Policy document prepared	30 for each International / 20



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		Process	for international bodies like WHO/UNO/UNESCO/UNICEF etc., Central / State Govt. / Local Bodies	for each national level output or patent. Major policy document of International bodies – 30 Central Government – 20, State Govt. - 10, Local bodies – 5
III (D)	RESEARCH GUIDANCE			
III (D) (i)	M.Phil	Degree awarded	Degree awarded	5 per candidate
III (D) (ii)	Ph.D	Degree awarded / Thesis submitted	Degree awarded / Thesis submitted	15/10 per candidate
III (E)	Fellowships, Awards and Invited lectures delivered in conferences / seminars			
III (E)(i)	Fellowships Awards	International Award / Fellowship from academic bodies	International Award / Fellowship from academic bodies	15 per Award / 15 per Fellowship
		National Award / Fellowship from academic bodies	National Award / Fellowship from academic bodies / associations	10 per Award / 10 per Fellowship
		State/University level Award from academic bodies	State/University level Award from academic bodies	5 per Award
III (E) (ii)	Invited lectures / papers	International	International	7 per lecture / 5 per paper presented
		National level	National level	5 per lecture / 3 per paper presented
		State /University level	State / University level	3 per lecture / 2 per paper presented
	The score under			



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	this sub-category shall be restricted to 20 % of the minimum fixed for Category III for any assessment period			
III (F)	Development of e-learning delivery process/material	10 per module		

*** Wherever relevant to any specific discipline, the API score for paper in refereed journal would be augmented as follows:(i) paper with impact factor less than 1 – by 5 points; (ii) papers with impact factor between 1 and 2 by 10 points; (iii) papers with impact factor between 2 and 5 by 15 points; (iv) papers with impact factor between 5 and 10 by 20 points; (v) papers with impact factor above 10 by 25 points.** The API for joint publications shall be calculated in the following manner: Of the total score for the relevant category of publication by the concerned teacher, the First and Principal/ corresponding author/supervisor/mentor would share equally 70% of the total points and the remaining 30% would be shared equally by all other authors.

The University shall identify the journals subject-wise through subject expert committees and forward the recommendations to UGC in the format prescribed by UGC for approval of the UGC Standing Committee. The journals approved from this list, by the UGC Standing committee, shall be included in the “List of Journals” notified by the UGC. The UGC Standing Committee shall give its recommendations within 60 working days of the receipt of the list from the University. The UGC Standing Committee may also, suo-moto, recommend journals for inclusion in the “List of Journals”. The clause 6.0.5 (i) will be strictly followed by the University.”

1.21. Even though the very same Table as such is adopted by the expert committee, the results are given with respect of the research papers as follows:-



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A.	Research papers published			
	Refereed Journals as notified by UGC	25 per publication	First Author (70 %) : 33 nos. 301.25 Other Author (30 %) : 01 nos.	First Author (70 %): 04 nos. 078.88 Other Author (30 %) : 16 nos.
	Other Reputed Journals as notified by the UGC	10 per publication	First Author (70 %) : 21 nos. 081.50 Other Author (30 %) : 01 nos	First Author : 15 nos. 069.10 Other Author (30 %) : 12 nos.
		Total	382.75	147.98

1.22. Thus, it can be seen that while the regulations require the score should be augmented concerning the impact factor and though the impact factor is also mentioned in the detailed table made by the selection committee, it can be seen from the final score which is given, that irrespective of the selection committee has ignored the impact factor and has given 10 marks to 25 marks as the case may be and arrived at the scores. Therefore, from the tabular column in the regulation, the 25 marks or 10 per paper publication is not the minimum score but is the maximum score. To arrive at the maximum score, the procedure is given even in the tabular column, the footnote is referred to by giving a star mark(*) and the note contains how to arrive at the maximum score. Though the word used is 'augmented', it can



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be seen from the reading of the entire note that it prescribes the method of arriving at the maximum score. However, the committee cannot simply allow the maximum score of 25 marks and conclude. It has to look into the impact factor and accordingly grant the points and thereafter it should divide the marks depending on whether the candidate is the sole author or 1st author (among the 1st author, it is sole 1st author or there are other corresponding author/supervisor / Mentor etc.,) or whether the candidate is the remaining author (whether the candidate is one remaining author or if there are more than one author, dividing the marks accordingly) and then arrived at the final score. It is only for the said purpose, the matter is referred to the expert committee. The expert committee despite the fact being constituted by a Court order, has flouted the Court order by violating the guidelines and has arbitrarily calculated the scores in violation of the rules.

1.23. *Mr B. Ravi*, the learned counsel for the 4th respondent – College would submit that the impact factor should be taken into account wherever relevant to a specific discipline only and since in this case the petitioner and the 6th respondent are from different disciplines it needs to be



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taken into account. The same is *ex-facie* wrong as the star mark is given in the table itself and it categorically states that wherever relevant specific discipline i.e., in respect of the appropriate column, whether it is faculty of Science, Engineering, Agriculture, Medical, Veterinary Sciences, or faculties of Languages, Humanities, Arts, Social Science, Library, Physical Education / Management, which is mentioned in column 2 and 3 above and about the type of journals, it has to be taken into account. The very purpose of the table is to calculate the API scores as per the objective criteria which is mandated by the UGC and there is no discretion for the selection committee to either take the impact factor or leave it out. Secondly, while considering the method of calculation there is no clarity. The regulation says that wherever relevant to any specific discipline, the API score for the paper refereed in journals would be augmented as follows:-

“(i) paper with impact factor less than 1 - by 5 points; (ii) papers with impact factor between 1 and 2 by 10 points; (iii) papers with impact factor between 2 and 5 by 15 points; (iv) papers with impact factor between 5 and 10 by 20 points; (v) papers with impact factor above 10 by 25 points. The API for joint publications shall be calculated in the following manner: Of the total score for the relevant category of publication by the concerned teacher, the First and Principal/ corresponding author/supervisor/mentor would share equally 70% of the total points and the remaining 30% would be shared equally by all other authors.”



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1.24. Some of the Universities have published in their website as if the marks for the impact factor would be added to the scores mentioned in the column and thereafter, divided between the 1st author etc. Some of the Universities and the petitioner in this case, in their self-calculation, have calculated their marks only based on the impact factor, i.e., even if the journal is refereed, if it has an impact factor less than 1, only 5 points and if it is impact factor between 1 and 2 then by 10 points and if it is with the impact factor 2 and 5 by 15 points and if it is between 5 and 10 by 20 points and impact factor above 10 by 25 points. The said calculation appears to be correct, since the word used in the tabular column is 'the maximum score for the teacher'. The selection committee went ahead as if the score of 25 or 10 as the case may be is the minimum score, which should be given for the paper and that it can ignore the impact factor. In the case of the petitioner, the number of papers is less, but there are several papers where the impact factor claimed is more. Therefore, this will have a vast difference in the scores of the candidates and will have an effect on the outcome of the comparative scores



itself and therefore this Court has to interfere.

1.25. Even with respect of the calculation of category (e) i.e., fellowships awards and invited lectures also, the calculation needs to be redone. Though the word 'fellowship' is not specifically mentioned in the UGC regulations, those would mean fellowship to reputed institutions/programmes which would be an invited membership based on academic excellence / subject expertise. The same would not mean the paid membership in respect of any Society etc., and therefore, the expert committee has erred on that score also.

1.26. In view thereof, this Writ Petition is allowed on the following terms:-

(i) The assessment of the Academic Performance Indicators (API) for the post of Principal selection by the 2nd selection committee constituted upon the directions of this Court, with the respondents 9 to 16 as its members, dated 18.06.2022 is set aside;

(ii) The 7th respondent shall depute three experts who shall be the



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screening and evaluation committee for screening the self-assessment of the petitioner as well as the 6th respondent in respect of the API scores and such experts shall be other than the respondents 9 to 16 in the present Writ Petition on or before 25.07.2024;

(iii) The petitioner and the 6th respondent can also submit their fresh self-assessment with reference to every research paper as per the tabulation as prepared by the 2nd expert committee, i.e., mentioning the Serial number, Paper number, Name of the journal, Application page number, ISSN number, Indexed in, Peer reviewed, Impact factor, First Author, Corresponding Author, Supervisor, Rest of the Authors, Score 100 % wt, Score of 70 % shared Marks, Score of 30 % shared Marks and the Final Score, before the respondents 4 and 5 on or before 31.07.2024, if they choose to;

(iv) Thereafter, the expert committee/screening committee shall meet on or before 16.08.2024 and consider and arrive at the API score strictly as per the UGC guidelines which are explained supra above in this order, in respect to every paper and arrive at a score in respect of Category (III) – Research and academic Contribution (A) i.e., Research papers published;

(v) Respondents 4 and 5 shall also place all the records which are



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produced by the petitioner and the 6th respondent herein along with their application in respect of all other categories and the evaluation committee shall re-assess the API scores as per the table;

(vi) The newly constituted expert committee shall prepare the Category – I, II and III and after preparing the final table in the same form as per the earlier selection committee, which is now set aside by this Court and also finally add up the interview marks and submit the results to the respondents 4 and 5;

(vii) In the resultant total score, if the 6th respondent gets more marks, then no further orders need to be passed by respondents 4 and 5. In the resultant score, if the petitioner has got more marks than the 6th respondent, then the petitioner shall be appointed as the Principal in respect of the 4th respondent – College for five years or until he attains the age of superannuation, on or before 15.08.2024. The final evaluation of the Expert Committee shall also be furnished to the petitioner as well as the sixth respondent.

(viii) No costs. Consequently connected miscellaneous petitions are closed.



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2: W.P.No.6880 of 2024:

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2.1 In the backdrop of the above facts in the earlier W.P.No.7241 of 2024, given the retirement of the 6th respondent, respondents 4 and 5 published the advertisement on 01.02.2024 calling for the applications to fill up the post of Principal of the 4th respondent – College.

2.2 The stand of the 4th respondent – College is that once *Dr. Senthilkumar*, who was validly selected for the post of Principal retired with effect from 31.05.2024, then the vacancy is a new vacancy which is arising from 01.06.2024 and therefore, the 4th respondent – College is entitled to fill up the same. As observed supra in this order, the parties are governed by the Judgment inter parties in the earlier round in W.P.No.15246 of 2018 dated 15.11.2021. Therefore, if the selection of the said *Dr.Senthilkumar* is held to be valid, then the respondents are entitled to proceed further with the selection of a new Principal. If the selection of the said *Dr.Senthikumar* is held to be erroneous, then the respondents are to fill up the vacancies as per the earlier directions given in W.P.No.7241 of 2024 supra. Therefore, this Writ Petition is disposed of on the following terms:-



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(i) The order of interim stay of further proceedings granted by this Court on 18.03.2024 shall stand vacated;

(ii) The respondents can proceed further with the receiving applications by extending time also if they choose to;

(iii) They can process the applications and proceed to conduct the selection also;

(iv) However, the final results of the selection shall not be announced until the Expert Committee submits its report of final scores as per the directions given in W.P.No.7241 of 2024 and depending on the same, the respondent can proceed to declare the results and select the new principal or appoint the petitioner in W.P. No.7241 of 2024 as the case may be;

(v) No costs. Consequently connected miscellaneous petitions are closed.

3: W.P.No.15665 of 2024

3.1. In the present Writ Petition, the self-same Writ Petitioner in the above two Writ Petitions, viz., *Dr.K.Thamizharasan*, is challenging the order dated 27.05.2024, issued by the Secretary, Sir Theagaraya College Committee



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- the 5th respondent in the present Writ Petition. The petitioner – *Dr.K.Thamizharasan* is suspended from service in contemplation of disciplinary proceedings for his gross misconduct.

3.2. The impugned order states that the College committee in its meeting held on 23.05.2024 in contemplation to initiate disciplinary proceedings for gross misconduct has decided to suspend the petitioner from service. The said order is challenged on the ground that only because he has filed the two Writ Petitions in W.P.Nos.7241 and 6880 of 2024, challenging the selection for the post of Principal, with a malafide intention, the Management is taking action against him. According to the Writ Petitioner, there is no misconduct on his part to initiate disciplinary proceedings. It is only the College – committee which is empowered to take disciplinary action as per Section 14 of the Tamil Nadu Private Colleges (Regulation) Act, 1976 (hereinafter referred to as 'the Act'). As per Section 18 of the Act, the teachers or the other persons employed in the Colleges are to be governed by the Code of Conduct as may be prescribed and if any teacher or other person violates the provisions of such conduct is liable for disciplinary action as may be



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prescribed. Section 18 of the Act further empowers the College – committee to define the standards of conduct that are not inconsistent with the provisions of the Act and the rules made under the Act.

3.3. Section 19 of the Act prescribes the procedure for punishing the teachers or other staff. Section 19(3) contains the provisions in respect of suspending such teacher or other procedure pending enquiry. The same is extracted hereunder:-

“19.(3)(a) No teacher or other person employed in any private college shall be placed under suspension, except when inquiry into the gross misconduct, within the meaning of their Code of Conduct prescribed under sub-section (1) of section 18, of such teacher or other person is contemplated.

(b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the competent authority may, for reasons to be recorded in writing, extend the said period of two months for a further period not exceeding two months, if, in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons, directly attributable to such teacher or other persons.”

3.4. It is the further contention of the learned counsel for the petitioner that it is only the College – committee, which can take a decision to



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suspend the petitioner. The College – committee cannot decide except by way of conducting the meeting as per the provisions of the Act and Rules. As per Rule 10 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, no meeting of the College – committee shall be conducted except with 7 clear days' notice in writing. In the instant case, no such notice was given and no proper meeting was conducted. The petitioner is also part of the College – committee and he has also not received any notice. Therefore, the impugned order of suspension was issued firstly by way of victimisation and secondly without jurisdiction and not conducting the meeting of the College – committee as per the rules and thirdly, without any gross misconduct on the part of the petitioner. Further, there is no appeal remedy, which is provided under the Act, in respect of the orders of suspension. Therefore, the petitioner is before this Court.

3.5. When the matter came up for admission, this Court ordered notice. The Writ Petition was resisted by the respondents by filing detailed counter affidavit.



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3.6. As per the counter, the meeting of the College - committee was duly constituted. Notice for the meeting was issued on 15.05.2024 and only after clear 7 days of notice, the meeting was held on 23.05.2024. While convening the meeting, after considering the materials which were about the petitioner, one *Dr S.Mahadevan* and *Mrs Kavitha*, and since the relevant deliberation was in respect of *Dr Thamizharasan*, the petitioner herein and *Dr S.Mahadevan* themselves, without inviting them, the meeting was conducted by the other members of the College committee and accordingly, after verifying the records, it was found that there were materials in respect of three misconducts. Therefore, the College committee had resolved to place the petitioner under suspension. After placing the petitioner under suspension, a charge memorandum was also served on the petitioner, containing three charges. Paragraph No.3 of the counter affidavit stating the charges is extracted hereunder:-

“I.Dr.K.Thamizharasan has committed an act of dereliction of duty by not engaging 72 % of the allotted Theory Class hours from October 2023 to April 2024, i.e., out of the total allotted 67 hours, only 19 hours of classes were taken by the petitioner. These absenting hours is apart from the total leave of 25 days taken by the petitioner during this period of 110 working days. This is a clear case of negligence and very gross dereliction of duty jeopardising the interest of students and the institution. This is also violative of Subclause 1 and 2 of Annexure 1 code of



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conduct for teacher and other persons employed in the college. Thus, he has failed to discharge his duties efficiently and diligently confirming to the rules and regulations.

II He has also behaved in an indecent way and abused colleagues and the management.

III As stated by Dr.V.Balaji, Asst. Professor in the Department of Commerce in his complaint, which was supported by an Dr.K.Vijaya Chitra, Asst. Professor in the Department of Commerce. ”

3.7. Therefore, the order of suspension is passed by the duly constituted College committee and on materials which are placed before the committee and not by way of vendetta. Since the disciplinary proceedings were contemplated in respect of gross misconduct, the order of suspension was also passed. Without any delay, subsequently, the charge memorandum itself has been issued, since the Act and the Rules contemplate completion of the disciplinary enquiry itself within a period of two months.

3.8. Heard, *Mr.Xavier Arul Raj*, the learned Senior Counsel appearing on behalf of the petitioner; *Mr.R.Kumaravel*, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3; *Mr B.Ravi*, the learned counsel appearing on behalf of the respondents 4 and 5; *Ms V.Sudha*, learned Standing Counsel appearing on behalf of the 7th respondent and *Mr B.Rabu Manohar*, the learned Senior Central Government



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Standing Counsel appearing on behalf of the 8th respondent and perused the material records of the case.

3.9. As far as the first contention of the learned counsel for the petitioner is concerned, it can be seen that by Sections 14 and 19 of the Act, the College Committee is duly empowered to place the petitioner under suspension. The College committee has been duly constituted with 7 days' notice. It would have been ideal for the respondents to have informed the petitioner, who is the member of the College committee that such a meeting is going to take place and that he was not invited to take part in the committee as the agenda is in respect of disciplinary proceedings against him. The same is only technical and would not substantially vitiate the meeting of the College - committee. Therefore, I reject the argument of the learned counsel for the petitioner and hold that a duly constituted College - committee with appropriate notice has made and taken the decision, according to which the Secretary has issued the order and therefore, the argument relating to jurisdiction and violation of Rule 10 is bound to fail.



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3.10. As far as the second argument, that the suspension is made by way of victimisation is concerned, when the 5th respondent has issued the charge memorandum containing three charges against the petitioner, which has nothing to do with the earlier selection and it cannot be concluded at this nascent stage that the same was issued with a malafide intention or victimisation. If only in the course of the oral enquiry, if the petitioner establishes any motive on the part of other members of the College - committee and can prove the same by letting in such evidence, the same can only be considered during the outcome of the disciplinary proceedings. At this stage, this Court is unable to accept the contention of the learned Senior Counsel appearing on behalf of the petitioner that the entire exercise is vitiated by malafide or it is by way of victimisation.

3.11. As far as the third contention of the petitioner is concerned, Section 19 (3) of the Act is extracted above. The power of suspension is conditional. Not on every occasion, when disciplinary proceedings are contemplated or undertaken, the staff can be suspended. If only the disciplinary proceedings are in respect of gross misconduct, suspension can



3.12. *Mr.B.Ravi*, learned counsel appearing on behalf of the 4th respondent – College would submit that all the misconducts which are enumerated in Annexure – I of the Rules should be considered as gross misconduct. He would further contend that if the petitioner is absent from duties, without prior permission then the same is expressly mentioned as misconduct in Annexure-I and even the other misconducts are enumerated under various entries in the list in Annexure – I and therefore, the suspension is justified. In this regard, Rule 12 is extracted hereunder:-

“12. Teachers and other persons employed in a college to be covered by code of conduct –

(1) Every teacher (and) other person employed in a college shall be governed by the code of conduct as set out in Annexure I.

(2) Every teacher or other person employed in a college shall, for violation of any of the provisions of the code of conduct, be liable to disciplinary action and punishment which may include dismissal, removal, termination of service or reduction in rank.

(3) Every committee shall send to the Director a copy of the standards of conduct referred to in sub-section (2) of section 18.

(4) Violation of any of the standards of conduct, defined by the committee shall render the teacher or other person employed in a college liable to disciplinary action and punishment which shall not, however, include dismissal,



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removal, termination of service or reduction in rank.”

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3.13. Rule 12 (1) merely enumerates the misconduct. Therefore, the arguments of the learned counsel that every such misconduct would be gross misconduct cannot be accepted. The term 'gross misconduct' is not defined in the Act or under the Rules. As per *Mr.P.Ramanatha Aiyar's Law Lexicon, 2nd Edition, reprint – 2009*, 'gross misconduct' shall mean 'misconduct of a flagrant nature'. Therefore, every misconduct cannot be termed as gross misconduct.

3.14. The factual allegations have to be taken into account while deciding whether the misconduct is flagrant. Such serious misconduct which may entitle the punishment of dismissal from service or such other major punishment can normally be gross misconduct. Normally, concerning the government servants, it has been understood in the parlance of Article 311 (2) which makes safeguards against removal/dismissal/reduction in rank. Therefore, broadly, if the misconduct alleged is flagrant i.e., which would entail major punishment subject to the context, suspension can also be



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resorted. This apart, if such an action is resorted to, this Court also cannot sit on appeal over the decision of the College - committee, as if it is an appellate authority. If two views are possible in the given set of facts, this Court cannot substitute its view to that of the College - committee and in that sense, this Court has to act within the contours of 'judicial review'.

3.15. From that perspective, the three charges that are now levied against the petitioner are taken into consideration.

3.16. Charge No.1 is that with respect of the subjects allotted to the petitioner, he has taken classes only for 19 hours of the total 67 hours. It can be seen that the charge itself would entail an academic debate as to whether such Senior Professors like that of the petitioner can be taken to task for giving lectures for less number of hours when they are deputed for other administrative works such as conferences etc. This apart, the academicians claim academic freedom and taking classes at the collegiate level cannot be made equivalent as that of the primary school teacher level. Senior Professors claim that they know when to take lectures and to what extent the students



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should learn on their own. In any event, it can be seen that not only the facts relating to the charge are debatable, the very allegation itself whether it would amount to misconduct or not is again debatable. Even viewed from the management's perspective or the College - committee's perspective as misconduct, still, it cannot be reasonably concluded that it is such a flagrant violation.

3.17. As far as the second and third charges are concerned, it is hurling abuses and listening to gossip from another teacher. Without going into the details, if anyone poses the question, of whether that would entail a serious action of *ad interim* suspension or any major punishment, the answer would be unequivocal no.

3.18. Even cumulatively considering the three charges, there is no way one could comprehend that the charges are of any flagrant violation or serious misconduct. In that view of the matter, when the matter involves a Senior Professor, merely because the College is ready to bear the salary if ultimately the petitioner is reinstated into service beyond a period of three



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months by itself would not refrain this Court from interfering with the matter.

When the action borders on palpable excess of its power, this Court in judicial review can interfere with the action especially in the absence of any appellate remedy as against the suspension order.

3.19. In view thereof, this Writ Petition is allowed on the following terms:-

(i) The impugned order of suspension dated 27.05.2024 is quashed, however, the respondents are at liberty to proceed further with the departmental enquiry, per law and complete the same as expeditiously as possible.

(ii) No costs. Consequently, the connected miscellaneous petition is closed.

4: W.P.No.15846 of 2024

4.1. In this case, the petitioner is *Dr. S. Mahadevan*, who is also a colleague and another Associate Professor. While the Writ Petitioner in the



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aforsaid three Writ Petitions viz., *Dr.K.Thamizharasan*, is the senior most Associate Professor in the College, the petitioner in the present case *Dr.S.Mahadevan* , is next in ranking i.e., Sl. No.2. He has also challenged the suspension order dated 27.05.2024.

4.2. The facts pleaded on either side are identical, except the charges issued to the present petitioner. The first charge in respect of *Dr.S.Mahadevan* is identical to that of *Dr.K.Thamizharasan*, which is alleged that out of 120 hours, he has taken class for 45 hours only and he has also taken leave for 34 days. Thus, in the backdrop of the fact, that the petitioner pleaded that either he was on leave or other duty, whether taking classes for only a lesser number of days can be termed as misconduct itself is debatable. As stated supra in the case of *Dr K.Thamizharasan*, when it comes to taking the Senior Professors to task for taking less number of lectures at the Collegiate level, is debatable.

4.3. The second charge against the petitioner relates to the fact that he along with *Dr.K.Thamizharasan*, the petitioner in the other case, had



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raised objections regarding the selection of a Junior as Vice Principal, which includes shouting in high decibel. In this regard, it can be seen that the allegations are taking a stand in the College - committee meeting. Originally there was no post of Vice Principal, officially mentioned in the regulations. Now, in the UGC regulations of the year 2018, as adopted by the University of Madras, the post of Vice Principal gets an official recognition. The relevant regulation reads as follows:-

“VI.Vice Principal

An existing senior faculty member may be designated as Vice-Principal by the Governing Body of the College on the recommendation of the Principal, for a tenure of two years, who can be assigned specific activities, in addition to his/her existing responsibilities. During the absence of the Principal, for any reason, the Vice Principal shall exercise the powers of the Principal.”

4.4. The Circular dated 03/10/2012 issued on behalf of the Department of Collegiate Education is that in the absence of the Principal the senior-most faculty would be appointed as the Principal in Charge. Arguments are made as if the said circular is overridden by the UGC regulations. Though the selection of Vice Principal is not under challenge, prima facie, it can be seen that as per Regulations and the Circular of the Collegiate Department, it can be seen that if there is a Principal, he is given



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the option to choose his Deputy, the Vice Principal, who will assist him in his duties and perform his functions in his absence. Such Vice-Principal should be a Senior Faculty and not necessarily the senior most. However, in this case, when the Principal is due to retire, the outgoing Principal has recommended a teacher who is not the senior most or next to him as Vice Principal and the management thinks that he will be the Principal in Charge. Prima facie, that is wrong. The Vice Principal shall be deputy to the Principal or Principal-in-Charge and carry out the functions in their absence. So, both sides seem to have indulged in heated discussions in the college committee meeting without understanding the scope of the rules, resulting in the Charge. In any even, it can be seen that whether the action is misconduct at all is debatable and would not amount to gross misconduct.

4.5. The third charge against this petitioner is that he has sent false allegations and complaints to the Authorities about the Institution. When a representation is sent to the appropriate authority and not in the media/press, again whether the same is misconduct or not is debatable. Only after the Government decides on the said allegations and representations, the same can



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be concluded whether it is false or true. At least, the charge is premature.

Therefore, it can be seen that none of the three charges can even be termed as gross misconduct or flagrant violation of any rule of misconduct. Thus, the terming of the same as gross misconduct by the respondent – College will not stand the test of proportionality and amounts to an excess of power and thus, for the same reasons mentioned in W.P.No.15665 of 2024, the order of suspension, in respect of the present petitioner also quashed and the Writ Petition stands allowed on the following terms:-

(i) The impugned order of suspension dated 27.05.2024 is quashed, however, the respondents are at liberty to proceed further with the departmental enquiry, per law and complete the same as expeditiously as possible.

(ii) No costs. Consequently, the connected miscellaneous petition is closed.

5: W.P.No.15966 of 2024

5.1. The petitioner – *Ms. V. Kavitha* is also working as an Assistant Professor in the 4th respondent – College. Being the Senior Teacher among the



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Scheduled Caste candidates, she was also nominated as a representative in the admission committee for the UG course. By an order dated 27.05.2024, she was also suspended from service on contemplation of disciplinary enquiry for gross misconduct. She has also challenged the suspension order on the self-same grounds.

5.2. The Writ Petition is resisted on the same grounds. Except the charges against the petitioner are different.

5.3. The first charge against the petitioner herein is that she was absent for invigilation duty for 3 days. The second charge is, gossiping against one *Dr.V.Balaji* and using abusive words mentioning his wife's name, etc. The third charge is joining hands with *Dr.K.Thamizharasan* in the matter of appointment of *Dr.K.Thiyagarajan* as Vice Principal.

5.4. As far as the appointment of Vice Principal is concerned, the same is explained in detail in the previous Writ Petition *supra*. In respect of the other charges, though it would certainly be misconduct, whether it would



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be a flagrant violation or not is the question. As far as the non-attending of invigilation duty, especially when the same is allotted, would be a misconduct. Similarly, another charge where she is supposed to have uttered words against the wife of another Professor – *Balaji* , especially assassinating her character and conduct as if she is in an extramarital relationship. If that is true, it is debatable whether it is gross misconduct i.e., serious or flagrant one or not. Once it is debatable, this Court by exercising the power of judicial review, cannot substitute its views at this stage as an appellate authority. Therefore, at this stage, unlike the other two Writ Petitioners, this Court is unable to hold that the charges as not of gross misconduct at this nascent stage. Therefore, when the College committee having powers to suspend the petitioner, has exercised its power, unless the exercise of power can be termed as an excess this Court by exercising its judicial review under Article 226 cannot interfere with the same.

5.5. Accordingly, this Writ Petition is dismissed. However, the petitioner would be entitled for reinstatement as per the provisions of the Act, if the disciplinary enquiry is not completed within a period of two months as



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contemplated under the act and the rules. No costs. Consequently, connected miscellaneous petition is closed.

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10.07.2024

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Neutral citation : Yes

To

1.The Secretary to Government of Tamil Nadu
Department of Higher Education
Fort St.George
Chennai – 600 009.

2.The Director of Collegiate Education
Directorate of Collegiate Education
Saidapet, Chennai – 600 015.

3.The Regional Director of Collegiate Education
Directorate of Collegiate Education
Saidapet, Chennai – 600 015.

4.The Joint Director of Collegiate Education
(Chennai Region)
Saidapet, Chennai – 600 015.

5.The Registrar
University of Madras
Chepauk
Chennai – 600 005.

6.University Grants Commission



W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024

Rep.by its Secretary
New Delhi.

D.BHARATHA CHAKRAVARTHY, J.,

Jer

Pre-Delivery Order made in
W.P.Nos.15665, 15846, 15966, 7241 and 6880 of 2024

10.07.2024