



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.02.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.19662 of 2023
and WMP.Nos.18920, 18921 & 18922 of 2023

Dr.R.Saravanan

... Petitioner

vs.

1.The University of Madras
Rep. by its Registrar
Chepauk, Chennai 600 005.

2.The Pachaiyappa's Trust Board
Rep. by its Secretary
Pachaiyappa's College Campus
Chennai 600 030.

3.Pachaiyappa's College
College Committee
Rep. by its Secretary
Pachaiyappa's College Campus
Chennai 600 030.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the two orders dated 16.06.2023 passed by the 1st Respondent in Official Communication No.VI/DAC/2023/255 and in No.V1/DAC/06-2023/256, quash the same and consequently direct the 1st Respondent University to allow the



W.P.No.19662 of 2023

petitioner to continue and function as a member of the Academic Council of their University and to forbear the Respondents 2-3 from initiating any action against the petitioner based on and pursuant to the order dated 16.06.2023 passed by the 1st Respondent University in No.V1/DAC/06-2023/256, award costs.

For Petitioner : Mr.V.Ajay Khose
for Mr.Krishnasamy R.

For Respondents : Ms.V.Sudha (for R1)
Standing Counsel

No Appearance (for R2 & R3)

ORDER

The petitioner is an Assistant Professor in History in Pachaiyappa's College/R3 since 27.01.2014. R3 is an aided college and one out of six Arts and Science Colleges run by the Pachaiyappa's Trust Board/R2.

2.The Madras University Act, 1923 (Act) regulates the functioning of the University of Madras/R1 as also monitors the quality of teaching by affiliated colleges. The hierarchy of authorities of the University, as stipulated under Section 13 of the Act are as follows:-

- '(1) the Senate,*
- (2) the Syndicate,*
- (3) the Academic Council,*
- (4) the Faculties,*
- (4-A) the Finance Committee,*
- (5) the Board of Studies, and*



W.P.No.19662 of 2023

(6) such other bodies as may be declared by the Statutes to be authorities of the University.'

3.The Academic Council is one of the authorities of the University of Madras and Section 23(a)(5) of the Act provides that one member from each Post Graduate college under its control can be a member of the Academic Council.

4. The petitioner was elected to this position based on Notification issued by R1 on 11.07.2022 and had been declared elected unopposed as no other teacher in R3 college had filed a nomination. He has been part of the Academic Council by virtue of proceedings dated 02.09.2022 for a period of three years from 18.07.2022 to 17.07.2025.

5. During this tenure, there had been vacancies in the Senate, Syndicate and Standing Committee of the University and two members of the Academic Council i.e. Dr.M.Uma and Dr.V.Lakshmipathy had filed their nominations for election to the Syndicate. Their nominations had been rejected, as against which Dr.Uma had filed a writ petition in WP.No.25469 of 2022 that had come to be allowed on 28.07.2023.

6. Aggrieved by the return of her nomination, the petitioner, with a group of 15 others including the two candidates whose nominations had been



returned, staged a Dharna in the University premises contesting the rejection of the nominations. The premise of the rejection had been that faculty members employed in self-financed Arts and Science Colleges could not contest for seats in the Syndicate.

7. Admittedly, the above stand of the University and the deletion of their names from the list of candidates has been found to be illegal by the writ Court in its order dated 28.07.2023. R1 states that a Writ Appeal has been filed challenging order dated 28.07.2023.

8. The Dharna had received wide publicity over television and the media. The University thus constituted a Committee to enquire into the matter, and the Committee of Enquiry submitted a detailed report dated 06.02.2023, wherein they make the following recommendations:

14. Recommendations of the Enquiry Committee

Based on the above rules and regulations of the University of Madras and the evidence made available to the Committee, the Enquiry committee recommends that

(i) In respect of the Eight (08) participants excluding Dr.R.Dhamodharan and Dr.B.Sankaran who are the faculty members of the Government Colleges, the Directorate of Collegiate Education may be advised to take necessary action against them.

(ii) In respect of the Five (5) participants who are the employees of the Government Aided Colleges, the concerned Board of Management / College Committee by whatever name they are



W.P.No.19662 of 2023

called may be advised to take necessary action against their employees in this regard.

(iii) In respect of Dr. Uma who is an employee of Self Financing College, the concerned Board of Management / College Committee may be advised to take necessary action against her in this regard.

(iv) In respect of Dr.V.Chandrakumar, Professor & Head, Department of Library and Information Science, University of Madras, suitable action may be initiated by the University as per Rules and Regulations of the University.

(v) The Enquiry notes that the following participants viz

(a) Dr.V.Lakshmipathy

(b) Dr.R.Dhamodharan

(c) Dr.B.Sankaran

have expressed regrets and sought pardon for their participation in the incident. The Enquiry Committee recommends that the above three (03) participants may be excused and let off with a warning.

9. In the course of the enquiry, the Sub-Committee had issued a show cause notice to the petitioner seeking his explanation/reply in regard to the prima facie case that 16 members had violated the Madras University Employees Conduct Rules and the Code of Professional Ethics (Appendix 2) of the Rules of the Madras University.

10. The petitioner chose not to appear, but tendered a written reply wherein he makes the following submissions:

i) He is a full time employee of an aided college in the State of Tamil Nadu and he has no Master-Servant relationship with the University of Madras under any stretch of imagination. Issuance of



W.P.No.19662 of 2023

the communication by the University is nothing but unnecessary harassment;

ii) The Communication issued by the Registrar of the University has been served on him without any jurisdiction and with malafide intention;

iii) The only competent authority to initiate any kind of Disciplinary Proceedings on him is the College Committee of Pachaiyappa's College, Chennai 600 030 under the Tamil Nadu Private Colleges (Regulations) Act 1976;

iv) The issuance of the aforesaid Communication by the Registrar is nothing but usurpation of the power vested with the College Committee;

v) He is neither legally bound to offer any explanation nor required to appear before the Committee of the University of Madras; and

vi) In the above circumstances and for the reason set out, the Registrar may be pleased to close this file and render justice.

11.The matter was thereafter placed before the Syndicate which, on consideration of the report of the Sub-Committee passed the following resolution:

RESOLVED that the enquiry report submitted by the Disciplinary Action Committee on the issue of staging of Dharna and Raising slogans against the University Administration by some of the faculties from Affiliated Colleges and University Department on 14.09.2022 be approved and the Vice-Chancellor be authorized to take further suitable action.



W.P.No.19662 of 2023

12. Consequent on the aforesaid resolution, the Vice Chancellor, in exercise of powers under Section 12 of the Act debarred the petitioner from membership in the Academic Council for one year, on the basis of his participation in the Dharna within the premises of the University without prior permission. To a specific query, learned counsel for R1 confirms that prior, permission must be sought by persons intending to stage protests/ Dharna in the University premises, which, at the discretion of R1, may either be allowed or not.

13. In the present case, the petitioner and his colleagues staged the Dharna on 14.09.2022 in the University premises without seeking requisite permission. The decision of the Vice Chancellor was communicated to the petitioner by the Registrar of R1 under impugned order dated 16.06.2023, challenged in this writ petition.

14. Mr. Ajay Khose, learned counsel, who appears on behalf of Mr. Krishnasamy R. for the petitioner would at the outset attack the impugned order on the ground that the Registrar has no powers to impose a punishment of debarment or any punishment at all.

15. Upon production of the note file to the effect that the punishment has been imposed by the Vice Chancellor and only conveyed by the Registrar, he



W.P.No.19662 of 2023

would pursue the same line of argument stating that even the Vice Chancellor is bereft of the requisite power to impose a punishment of debarment.

16. According to him, it is only the Senate under Section 40 of the Act that may impose punishment upon a person in the membership of any authority of the University. He draws attention to Section 40 of the Act to state that the circumstances under which the Senate may pass such an order of removal would not arise or be attracted in this case.

17. The circumstances adumbrated are if that person becomes of unsound mind or deaf mute or suffers from leprosy or has applied to be adjudicated or has been adjudicated as an insolvent. None of the aforesaid circumstances arise in the present case. That apart, even Section 40 contemplates that action must be only after reasonable opportunity to show cause, which has been denied to this petitioner to that person. According to him, there is no other provision under either the Act or the Laws of the Chennai University (Laws) entitling the Vice Chancellor to impose a punishment upon a member of the Academic Council.

18. Learned counsel for R1, Ms.V.Sudha, would, for her part, draw attention to Section 2 of the Laws which defines Officers, Authorities, Professors, Readers, Lecturers, Teachers and Servants to mean respectively



W.P.No.19662 of 2023

Officers, Authorities, Professors, Readers, Lecturers, Teachers and Servants of the University. Thus, the Academic Council, is one of the authorities constituting the University per under Section 13 of the Act as well as Section 2 of the Laws.

19. Mr.Khose reiterates that the petitioner has no master-servant relationship with the University and in this regard, he relies on a judgment of the Hon'ble Supreme Court in the case of *Vijay Singh v. State of Uttar Pradesh and Others* [(2012) 5 SCC 242].

20. That judgment was rendered in the context of punishment imposed under the U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, where the Court has held that imposing a punishment for proved delinquency is regulated and controlled by statutory rules. While imposing such punishment, the disciplinary authority is thus bound to adhere strictly to the rules and cannot traverse beyond the same.

21. He also relies on the decision in *Suresh Manohar and another v. State of Tamil Nadu and others* [2003 (4) CTC 1], where the petitioners were employees of private aided colleges. The challenge in that case was to an order of suspension passed by the Government suspending them. That writ petition



W.P.No.19662 of 2023

was allowed holding that disciplinary action in regard to faculty in an aided college could only be at the instance of the college committee.

22. I have heard both learned counsel. The Dharna conducted on 14.09.2022 on the University premises was admittedly without prior permission, which ought to have been sought and, if rejected, not conducted at all. I thus find that the conduct of Dharna on 14.09.2022 without prior permission in the University premises certainly constitutes an act of indiscipline.

23. The fact that the Dharna was in regard to the candidature of two persons who were successful before the writ Court would be of no consequence in this matter as we are not concerned with the merit or otherwise of the *reason* for the staging of the Dharna, but the act of staging and participating in the same sans permission, inside the University.

24. The Code of Conduct set out in Appendix E of the Act relates to teachers and their responsibilities and the petitioner, being an Assistant Professor, and moreover, a member of Academic Council, ought to have explored other methods to put forth his grievances rather than participating in a Dharna conducted without prior permission.



W.P.No.19662 of 2023

25. That apart, the constitution of the Academic Council under Section 23 is of 8 ex-officio members and several nominees of institutions. The powers and duties of the Academic Council under Section 24 are lofty.

26. They include the power to make regulations, amend or repeal the same, advice the Senate and Syndicate all in matters, to make proposals to the Senate and Syndicate, institute professorships, lectureships, setting up courses of studies, conduct examinations, constitute faculties in various subjects for colleges, advice the Syndicate on promotion of research in the University, and oversee research work. Such aims and objects can only be achieved if there is discipline amongst the teaching faculty.

27. To the argument that the punishment is disproportionate to the event, this Court is of the view that there is nothing perverse in the punishment imposed. The petitioner admittedly performs two roles (i) a professor in R3 College and (ii) a member of the Academic Council. Separate proceedings have been initiated by the College Committee qua his role as a professor of that college.

28. The impugned order relates to his participation in the Dharna as a member of the Academic Council only. Thus, the decisions relied on by the petitioner would not be relevant in the facts and circumstances of the present



W.P.No.19662 of 2023

case. I am also of the view that there is nothing untoward in the assumption of jurisdiction by the Vice Chancellor. Section 12 of the Act as well as the Rules bestow vast powers upon the Vice Chancellor as the Administrative Head.

29. The Vice Chancellor is the Principal Executive Officer of the University and an ex-officio member and Chairman of the Syndicate, the Academic Council and the Financial Committee. Section 12(2) casts a duty upon the Vice Chancellor to ensure that the provisions of this Act, the Statutes, Ordinances, and Regulations are faithfully observed and carried out and he may exercise all powers necessary to ensure that such purpose is achieved.

30. The grant of powers as aforesaid and the responsibilities cast are echoed in Section 2 of the Laws as well. The Vice Chancellor is sufficiently empowered to deal with indiscipline on the premises of the University by an authority of the University, such as a member of the Academic Council. Thus, in my considered view, the imposition of punishment of debarment for a period of one year, a temporary and transient punishment, by the Vice Chancellor would fall well within the ambit of powers under Section 12 of the Act and Section 2 of the Laws.

31. In light of this discussion, I find no merit in this writ petition and dismissed the same. No costs. Connected miscellaneous petitions are closed.



W.P.No.19662 of 2023

05.02.2024

vs

Index : Yes / No

Speaking Order

Neutral Citation: Yes

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