



W.P.No.21463 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.09.2024

PRONOUNCED ON : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.21463 of 2022
and
W.M.P.Nos.20467 & 20469 of 2022
and
W.M.P.No.8200 of 2023

Dr.S.Balakumar

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. By its Principal Secretary,
Department of Higher Education,
Fort St. George,
Chennai-600 009.

2.University of Madras
rep. By its Registrar,
University Centenary Buildings,
University of Madras,
Chepauk, Chennai-600 005.

3.Dr.R.Elangovan

...Respondents



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Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the second respondent University in official communication No.D1/Te/2022/R-61 dated 18.07.2022 and to quash the same.

For Petitioner	: Mr.P.Godson Swaminath for Isaac Chambers
For Respondent-1	: Mr.C.Jaya Prakash, GA
For Respondent-2	: Mr.A.S.Vijayaraghavan Standing Counsel

ORDER

The impugned order of the second respondent University in official communication No.D1/Te/2022/R-61 dated 18.07.2022, is put under challenge in the present Writ Petition.

2. Heard Mr.P.Godson Swaminath, learned counsel for the petitioner and Mr.C.Jayaprakash, learned Government Advocate, as well as Mr.A.S.Vijayaraghavan, learned Standing Counsel appearing on behalf of the respondents 1 and 2 respectively.



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3. The short facts of the case is as follows:

The petitioner herein is the senior most professor in the Department of Nanoscience and Nanotechnology. Since the petitioner being the Head of the Department/Director of the National Centre for Nanoscience and Nanotechnology, he was a member of the Senate and Academic Council of the University. As per the Statutes of the University, the senior most professor shall be the head of the department and was appointed as Professor and Director of National Centre for Nanoscience and Nanotechnology. To all of a sudden, the second respondent University issued the impugned order in official communication No.D1/TE/2022/R-61 dated 18.07.2022, calling the petitioner to hand over the charge of Director of National Centre for Nanoscience and Nanotechnology without any reason and displacing the four years junior Dr.R.Ilangovan in his place as Director of National Centre for Nanoscience and Nanotechnology.

4. Aggrieved over the same, the petitioner has come forward with the present petition.

5. The learned counsel for the petitioner submitted that the



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petitioner herein is the senior most professor in the Department of Nanoscience and Nanotechnology and was the Head of the Department/Director of the National Centre and also the member of the Senate and Academic Council of the University. He contended that as per Chapter IX Statutes of the Madras University Statutes in a University Department, the senior most professor shall be the head of the department. He drew the attention of this Court to the Statute-2 of Chapter VIII, whereby, the National Centre for Nanoscience and Nanotechnology have been declared as University Department of Study and Research, with effect from 01.04.2015. He also stated that the petitioner was made as full-fledged Director of the Centre with effect from 27.01.2015 from the date of his promotion as Professor. He submitted that the Syndicate of the University alone has the power to deal with appointments, duties and conditions of service of professors and others and hence, the impugned order dated 18.07.2022 passed by the Vice Chancellor of the second respondent University, is *per se* illegal and untenable. In order to prevent the petitioner away from the designated post of HOD/Director, an amendment was made by the University to the effect that the designation of HOD/Director should be by rotation for two years. He argued that if the impugned order appointing the third



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respondent herein as HOD is valid, then also the tenure of the petitioner will be over on 19.07.2023 and it is pertinent to note that the primary consideration for appointment as per the amended provision is on merits where the third respondent is not a meritorious person.

6. Apparently, it is predominant to note that the Writ Petition challenging the impugned order dated 18.07.2022 is pending, the amendment will not have any bearing in this case and as per the existing position as on 18.07.2022, the petitioner's position as HOD/Director has to be restored and then only, the amended provision can be implemented for the post of HOD/Director in the Department by considering the merits of the candidate. Hence, the learned counsel prayed that the petition has to be allowed.

7. The learned Standing Counsel for the second respondent/University submitted that the National Centre of Nanoscience and Nanotechnology is a UGC sponsored National Centre and administered as per the guidelines of UGC and after the inclusion of the National Centre in the Statute as a University Department, the guidelines may not be made applicable to the Department and that



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the Act and the Statute will replace the guidelines. UGC issued guidelines to UGC National Centres for Nanoscience and Nanotechnology including the appointment of Directors, in which the Director would be eligible on completion of the first three year term and reappointment of the same is only after taking into account the performance of the Director concerned during his/her tenure which has to be recommended favourably by the Appraisal Committee to be constituted by the Governing Council and the recommendation of the Appraisal Committee duly approved by the Governing Council and the same shall be forwarded to the Vice Chancellor for reappointment. UGC review Committee recommended that the tenure of the Director appointed to the UGC Centres shall be for three years only and it visited the UGC National centre on 28.02.2014 and 01.03.2014 to review the progress made by the Centre and the report of the UGC Review Committee was forwarded to the second respondent on 27.09.2016.

8. At this juncture, the learned Standing Counsel submitted that the report of the UGC Committee does not disclose a satisfactory performance by the Centre during the tenure of the petitioner as Director-in-Charge and also that the petitioner has been continuing as



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Director for nearly 10 years which is in violation as well as against UGC's guidelines. Pursuant to the impugned order dated 18.07.2022, the third respondent was appointed as Director-in-Charge. However, the petitioner had refused to hand over his charge to the third respondent inspite of the information by both the University and the third respondent. Furthermore, he contended that due to the remarks forwarded to the second respondent, the petitioner was made as member of Academic Council and the Senate of the University and not on meritorious service as claimed by him. He submitted that awards of the several projects received by the Centre was due to the team work and not by the petitioner as contended by him. He submitted that the Writ Petition sans merits and is liable to be dismissed.

9. In continuation of his submissions, the learned counsel contended that the Syndicate at its meeting held on 23.08.2022 considered the rotation of headships in the departments and resolved to get the opinion survey regarding headship rotation from the professors, who are not currently the head of the department of the University and the Vice Chancellor be authorized to take suitable action. The said opinion was accepted and rotation of the headship



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for the departments of the University be executed based on the performance and merit of the professors of the concerned department. The Senate considered the consequential amendments to be made to the Statute 25 in Chapter IX and approved the following proposal viz., in a University department in which if there are professors then the professor in the department shall be the Head of the department on rotation, based on the performance and merit of the professors of the concerned department and all the other professors, readers and lecturers, if any, shall work under the direction of the professor and head of the department concerned with the subject and shall assist him in the performance of his duties as defined in law 22, 23 and 25 of the Chapter. The resolution dated 25.03.2023 of the Senate of the University and the consent of the Governor Chancellor communicated to the University on 09.05.2023 to the proposed amendments to the Statute 25 in Chapter IX, Volume I of the University Calendar 2016 are produced.

10. While summing up his arguments, the learned counsel submitted that the impugned order of the second respondent does not suffer from any illegality or irregularity and is only passed based on the amended provision of the University Statute and hence, the



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writ petition is liable to be dismissed.

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11. Considered the rival submissions made by the respective counsels and also perused the materials available on record.

12. On perusal of the Statutes of the University, it is clear that the senior most professor of the department shall be the Head of the department. It is to be noted that the petitioner, being the senior most professor in the National Centre for Nanoscience and Nanotechnology of the second respondent University and was solely responsible for almost all the projects that are awarded to the Centre and responsible for continuance of research work in the projects under the Centre and also the ex-officio member of the Academic Council and the Senate, the impugned order of the second respondent warrants interference. Moreover, the impugned order was passed by the second respondent without any notice or opportunity of hearing of the petitioner. Considering all these aspects, this Court is of the considered view that the impugned order of the second respondent dated 18.07.2022 displacing the petitioner herein from the designated post of HOD/Director, is illegal and unsustainable and



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hence, the same is liable to be quashed.

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13. For the foregoing reasons, the impugned order of the second respondent dated 18.07.2022 is hereby quashed and the Writ Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

22.10.2024

Index: Yes/No
Order: Speaking/Non-Speaking
NCC : Yes/No

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To

- 1.The Principal Secretary,
State of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai-600 009.
- 2.The Registrar,
University of Madras,
University Centenary Buildings,
University of Madras,
Chepauk,
Chennai-600 005.



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VIVEK KUMAR SINGH, J.

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