

(2009) 10 MAD CK 0069

In the Madras High Court

Case No : Writ Petition No. 19624 of 2009

Dr. C. Alagesaboopathi

APPELLANT

Vs

Periyar University

RESPONDENT

Date of Decision : 21-10-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Periyar University Act, 1940 — Section 10(3)

Citation : (2009) 10 MAD CK 0069

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : S. Mani, for the Appellant;

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner is one of the applicants for the post of Professor in Micro Biology in the 1st respondent University.

2. The case of the petitioner was that he had applied for the said post and was not called for an interview. But, 8 other persons were interviewed

and none of them has got Ph.D in Microbiology. The petitioner had published 71 research papers, out of which six research papers were

exclusively in Micro Biology. He has also guided 1 Ph.D and 42 M.Phil candidates. The petitioner also stated that there is some favoritism to a

particular candidate and the interview dates were extended and some other persons were interviewed.

3. The petitioner had not given any details about the names of the persons, who were interviewed. The stage for challenging such an appointment

does not arise because the selection committee of the Syndicate, consisting of Subject Experts, will consider the educational qualifications of the

persons who had attended the interview, while doing selection for the post of Professor. It is only on the basis of the Selection Committee's

recommendation, the matter will be placed before the Syndicate. The Syndicate alone is the appointing authority for the post of Professor. Unless

and until the respondent chooses a candidate and places it before the Syndicate and gets the approval, no person can be appointed as a Professor.

Therefore, the Writ Petition is pre-mature.

4. Even if any such appointments are made by the Syndicate contrary to the University Act and the statutes framed there under, Section 10(3) of

the Periyar University Act, 1940 gives the scope for the Chancellor of the University to review such orders. The said Section is extracted below:

3. The Chancellor may, of his own motion or an application, call for and examine the record of any officer or authority of the University in respect

of any proceedings to satisfy himself as to the legality of such proceedings or the correctness, legality or propriety of any decision taken or order

passed therein, and if, in any case, it appears to the Chancellor that any such decision or order should be modified, annulled, reversed or remitted

for reconsideration, he may pass orders accordingly:

Provided that every application to the Chancellor for the exercise of the powers under this section shall be preferred within three months from the

date on which the proceedings, decision or order to which the application relates was communicated to the applicant:

Provided further that no order prejudicial to any person shall be passed unless such person has been given an opportunity of making his

representation.

(4) The Chancellor shall exercise such other powers and perform such other duties that may be conferred on him by or under this Act.

5. While considering a similar provision found in the Gujarat University Act, 1949, the Supreme Court vide its decision in Gujarat University v.

N.V. Rajguru reported in : 1987 (Supp) SCC 512 directed the aggrieved parties in case of an election to the University to move the Chancellor, to

redress their grievance and not to invoke the power of this Court under Article 226 of the Constitution.

6. When the Chancellor of the University has the power under the Act and if there was any illegality committed by the authorities under him, it is for

the petitioner to make appropriate complaint before the Chancellor. It is only when the petitioner did not get any relief in terms of the provisions of the Act, the question of a judicial review by this Court will arise.

7. Hence, the Writ Petition stands dismissed as misconceived. No costs. The connected Miscellaneous Petition stands closed.