
(2000) 11 MAD CK 0123
In the Madras High Court

Dr. P. Ramamoorthi

APPELLANT

Vs

The Madurai Kamaraj University and Another

RESPONDENT

Date of Decision : 17-11-2000

Acts Referred:

Citation : (2001) 1 MLJ 204

Hon'ble Judges : P. Sathasivam, J

Bench : Division Bench

Judgement

P. Sathasivam, J.—The above writ petition has been filed against the proceedings of the first respondent in Memo No. Estt/T/1/92, dated

12.1.1993 by which the petitioner was demoted to the lowest cadre in the lowest post that is Lecturer from the post of Reader and by which the

petitioner was debarred from guiding Ph.D., research scholars.

2. The case of the petitioner is briefly stated hereunder:

The petitioner was selected and appointed by the first respondent in 1976 as Lecturer in Madurai Kamaraj University English Department. In

1984 he was conferred with Doctorate in English by the first respondent University and in 1985 he was promoted as Reader in the Department of

English. Later, when the Department of Theatre Arts was formed in 1990, he was transferred and posted as the Reader and incharge of the Head

of the Department of Theatre Arts. He had been invited for several International conferences and had prepared 3 U.G.C. E.T.V. programmes. He

had written two plays in English and 4 plays in Tamil and these plays have been enacted for the public audiences. In 1981, the British Council

offering visitorship grant invited him to attend the International Shakespeare Conference held at Stratford-upon-Avon England and he was the only

Indian invited for the above conference. There, he had the opportunity to meet several scholars who came for the conference from all over the

world. At the conference, he was introduced to Mr. W.B. Thorne from Canada and some others, who were interested in the Last Plays of

Shakespeare. In 1987, the Aligarh Journal of English studies requested him to forward Articles on Literary Studies for publication in their journal.

He sent his article ""Ritual of Atonement in Shakespeare's Late Plays"" to the above journal, and the said article was published in the journal in

1987. After several years, he received from the second respondent Vice Chancellor of Madurai Kamaraj University, a Note dated 9.11.1992

stating that the Secretary, Association of India Universities, New Delhi, has reported that his article ""Ritual of Atonement in Shakespeare's Late

Plays"" published in Aligarh Journal of English studies Volume 12.2 (1987) has been plagiarised verbatim from the article of Mr. W.B. Thorne ""The

Cycle of sin in Shakespeare's Late Plays"" published in the journal Upstart Crow 4 (1982) 86-93 and the matter is viewed seriously. He requested

to submit his explanation for taking further action. It is further stated that there was some mis-understanding between him and the Vice-Chancellor

in respect of Theatre Festival conducted during 18th, 19th and 20th February, 1992. On extraneous considerations and in bad faith, the Vice

Chancellor with the help of his close associates has maligned him and ruined the recognition he has earned by his hard work at national and

international level. In letter dated 22.11.1992, he was directed to appear before the Syndicate Sub Committee on 24.11.1992 at 10 A.M. The

said communication was issued by the Registrar, who has no power and the Syndicate alone has power to enquire into any disciplinary matter

against the staff of the University. He explained before the sub-committee that the proper person to complain is the author of the Article which is

plagiarized and when Mr. W.B. Thorne has not made any complaint, in law he cannot be blamed. Based on the enquiry, a Charge Memo

containing six charges have been attributed against him. Thereafter, he was called upon to explain why disciplinary action should not be initiated

against him for all the lapses he had committed. Since the charges made hypothetical claims, to put an end to the controversy, he submitted that he

has become unknowingly involved in such complication and regrets for the same and he will be careful in future not to allow such thing to happen

and expressed his profound regret for the un-wanton complications. After completion of the enquiry before the Syndicate Sub-Committee, Dr. P.

Natesan told him that he could sign the typed sheet, as he had only reworded his explanation. Believing his words, he signed the typed paper. At

that time, suddenly the electricity failed and the lights went of. On 28.12.1992 the Syndicate has resolved to demote him to the lowest post i.e.,

Lecturer for a period of 6 years and to debar him from guiding Ph.D. Research Scholars forth-with. The said order is not a valid order passed in

accordance with law and the same is liable to be quashed.

3. On behalf of the first respondent University, the Registrar has filed a counter affidavit disputing various averments made by the petitioner. It is

stated that an Article ""The Cycle of sin in Shakespeare's Late Plays"" was authored by W.B. Thorne, Professor of English, Queens University,

Ontario, Canada. It was published in the Journal, ""Upstart Crow"" Volume IV 86-93 in 1982. The petitioner herein had published the article of

W.B. Thorne, plagiarizing it verbatim under the marginally altered title ""Ritual of Atonement in Shakespeare's Late Plays"" in the Aligarh Journal of

English studies, 12:12 in the year 1987. This intellectual theft of plagiarism by the petitioner was detected by Ms. Melody Chan, a research

scholar, working under Dr. James L Harner, Professor of English-Texas, A and M University, Texas in 1991. Dr. James L. Harner also happens

to be the Editor, World Shakespeare Bibliography. So he contacted W.B. Thorne through a letter dated 9.12.1991 and asked whether he had

published the article ""The Cycle of Sin in Shakespeare's Late Plays"" under a pseudonym in Aligarh Journal of English Studies. W.B. Thorne by his

letter dated 17.12.1991, denied publishing the article under a pseudonym and maintained that the petitioner had stolen his article and had it

published in ""Aligarh Journal of English Studies"" in 1987. Thereafter, Dr. James L Harner contacted Dr. Agrawala, Secretary of Association of

Indian Universities, New Delhi, who in turn contacted the Vice Chancellor of Madurai Kamaraj University by a letter dated 30.10.1992 to take

appropriate action against the petitioner. Then a Syndicate Sub-Committee was constituted on 13.11.1992 as per Rule 25 (a) relating to powers

of Syndicate.

4. It is further stated that the Sub-committee members on a comparison of

aforesaid two articles (original by W.B. Thorne) and the other published by the petitioner, framed charges, which was communicated to the petitioner with questionnaire form on 25.11.1992. The petitioner wanted a copy of the article of Mr. W.B. Thorne to enable him to submit his explanation as per his letter dated 27.11.1992. The petitioner had also admitted that he had committed plagiarism and had stated that he owns responsibility and expressed regret. Even before the Syndicate Sub-Committee, at the time of enquiry held on 17.12.1992 he had admitted all the charges, and also given a signed statement. Subsequently, on 28.12.1992, the Syndicate of the Madurai Kamaraj University approved the Minutes of the Syndicate Sub-Committee and decided to demote the petitioner to the lowest cadre in the lowest scale and debarred him from guiding research scholars. The said decision of the Syndicate was communicated to the petitioner by a letter dated 12.1.1993 and the petitioner has challenged the said order dated 12.1.1993 in this writ petition.

5. The 2nd respondent, namely, Mr. Kuthalingam, Vice-Chancellor of the Madurai Kamaraj University has also filed a separate counter affidavit

denying all the averments made by the petitioner in so far as against him.

6. In the light of the above pleadings, I have heard Mr. N.S. Sivam, learned Counsel for the petitioner and Mr. S. Jayaraman, learned Counsel for the respondents.

7. Mr. N.S. Sivam, learned Counsel for the petitioner, after taking me through the entire proceedings including charge memo, enquiry proceedings

of the Syndicate Sub-Committee and the ultimate decision which is impugned in the writ petition, would contend that as per the University

Regulations, it is for the Syndicate to constitute a committee and not the Registrar as done in this case. He also contended that no enquiry was

conducted, and at any rate, the enquiry by the Syndicate Sub-Committee cannot be considered as a valid one since it violated all canons of

justice. He also contended that inasmuch as the petitioner was demoted to the lowest cadre in the lowest post that is Lecturer and also debarred

from guiding Ph.D., research Scholars, the respondents ought to have conducted two separate enquiries before imposing two separate

punishments. On the other hand, Mr. S. Jayaraman, learned Counsel appearing for the respondents, would state that the sub-committee was

constituted to assess the enquiry officer and inasmuch as the petitioner did not raise any objection and participated in the enquiry, the same cannot be questioned at this juncture. He also contended that the entire proceedings was initiated in accordance with the statute of the University and even in the enquiry, the petitioner had accepted his guilt and offered regret for charges levelled against him; accordingly no interference is called for by this Court in this writ petition.

8. I have carefully considered the rival submissions.

9. In view of narration of the case of the petitioner as well as the University in the earlier part of my Order, it is unnecessary to refer the same once again. On the basis of the letter dated 30.10.1992 of the Secretary of Association of Indian Universities, New Delhi, addressed to the Vice-

Chancellor, Madurai Kamaraj University, 2nd respondent herein, regarding plagiarizing the Article published by W.B. Thorne, necessary action

was initiated by the Syndicate. There is no dispute that an article ""The Cycle of Sin in Shakespeare's Late Plays"" was authored by W.B. Thorne,

Professor of English Queens University, Ontario, Canada. The same was published in the Journal, ""Upstart Crow"" Volume IV 86-93 in 1982. The

petitioner herein had also published the same article of W.B. Thorne under the title ""Ritual of Atonement in Shakespeare's Late Plays"", by

plagiarizing it verbatim in the Aligarh Journal of English studies. The said act was brought to the notice of the original author W.B. Thorne by one

Ms. Melody Chan, a research scholar working under Dr. James L. Harner, Professor of English, A and M University, Texas in 1991. Upon the

said detection, Dr. James L. Harner by his letter dated 9.12.1991 contacted W.B. Thorne in order to ascertain whether the latter had published

the article in Aligarh Journal of English Studies. W.B. Thorne by his letter dated 17.12.1991 denied the publication in the Aligarh Journal of English

Studies in 1987. In the light of the above particulars and on the basis of the complaint made by the Secretary of the Association of Indian

Universities, New Delhi, the then Syndicate Sub-committee was constituted on 13.11.1992. There is no dispute that as per the Rules of the

University, Syndicate alone is the competent authority to take action. The Syndicate Sub-committee, on a comparison of the above two articles

framed necessary charges which were communicated to the petitioner with

questionnaire form on 25.11.1992. It is also seen that as per the request made by the petitioner for supply of a copy of article of W.B. Thorne to enable him to submit his explanation, the said copy was also supplied to him on 30.11.1992. Thereafter, he submitted his explanation on 14.12.1992.

10. Before considering the enquiry proceedings of the Syndicate Sub-committee and the ultimate decision, I shall consider the contentions of the

petitioner that the proceedings initiated by the Registrar of the Madurai Kamaraj University cannot be sustained. In this regard, it is relevant to note

that on receipt of a letter dated 30.10.1992 from Dr. Agrawala, Secretary of Association of Indian Universities, New Delhi, the then Vice-

Chancellor himself had sent a note to the petitioner with regard to the act of plagiarism of the article written by W.B. Thorne and after stating that

the matter is of very serious in nature, directed him to submit his written explanation for taking further action in the matter. The said note is dated

9.11.1992. On 13.11.1992, the personal assistant to Vice-Chancellor reminded the petitioner to offer his explanation. The Registrar, in his letter

dated 22.11.1992 sent to the petitioner through the Head of the Department of Art History, Aesthetics and Fine Arts, requesting him to appear

before the Syndicate Sub-Committee at 10 A.M. on 24.11.1992 to enquire the plagiarism committed by him. On 25.11.1992, as per the

deliberation of the Syndicate Sub-committee, charges have been framed and petitioner was directed to offer his defence within 15 days. In the

same proceedings, the petitioner was directed to state whether he desires to have oral enquiry and or personal hearing. A questionnaire form was

also enclosed with a direction to fill in the same and submit it along with his written statement of defence. By pointing out the said communication,

learned Counsel for the petitioner has contended that the Registrar has no authority to send such a communication and that he is not the competent

authority to take action against the petitioner. Chapter IV of the Madurai University Act, 1965 speaks about the powers and duties of the

Syndicate, while Chapter VI, refers to the appointment, power and duties of the Registrar, Deputy Registrar and Assistant Registrar. Section 8 of

the Act enumerates various duties of the Registrar. It is clear that the Registrar is the custodian of all records, common seal and property of the

University as the Syndicate shall commit to his charge. He is to act as the Secretary to the Syndicate and to attend all meetings of the Senate,

Academic Council, Faculties, Syndicate and any committees appointed by these authorities and to keep minutes thereof. As per Clauses (c) and

(d) of Regulation 8 of Chapter VI Laws of the University, he has to conduct the official correspondence of the Syndicate and the Senate and to

issue all notices for convening meetings of the Senate, Academic Council, Faculties, Syndicate etc., Clause (e) of the said Regulation 8 gives him

power to perform such other work as prescribed by the Syndicate and to render such assistance as may be desired by the Vice-Chancellor in the

performance of his official duties. In such a circumstance, I am unable to accept the contra argument made by the learned Counsel for the

petitioner and I hold that the Registrar has not exceeded his power or limit in any way.

11. With regard to the enquiry and the ultimate decision, it is useful to refer the Minutes of the Syndicate meeting held on 28.11.1992, 13 members

including the Vice-Chancellor attended the said meeting. Item No. 47 relates to the petitioner, which reads thus:

47. Considered the decision of the Syndicate Sub-Committee held on 24.11.1992 to enquire and submit a report to the Syndicate for taking

further action in the matter of an incident of plagiarism committed by Dr. P. Ramamoorthi, Reader, Dept. of Art History, Madurai Kamaraj

University, Madurai.

Resolved that the decision of the Syndicate sub-committee held on 24.11.1992 to enquire the matter of an incident of plagiarism committed by Dr.

P. Ramamoorthy, Department of Art History of this University be recorded.

Mr. N.S. Sivam, learned Counsel for the petitioner, contended that the Syndicate has not approved the decision of the Syndicate Sub-committee.

It is clear in the meeting held on 28.11.1992, the Syndicate approved and recorded the decision of the sub-committee held on 24.11.1992 to

enquire the matter of an incident of plagiarism committed by Dr. P. Ramamoorthy (petitioner herein); hence I am unable to accept the argument of

the learned Counsel for the petitioner.

12. Now, I shall consider the explanation submitted by the petitioner on 14.12.1992 to the charge memo. With regard to charges 1 and 2, he has

fairly stated that on scrutiny, the texts of the two articles are identical. He also stated that it is his moral responsibility to express his sincere regrets

for being unknowingly involved in such a complication and he assured that such lapses will not occur in future. In regard to charges 3 and 4 he

assured that in future also he shall work with greater commitment and shall not indulge in any activity that will ruin the reputation of the University.

With regard to charges 5 and 6, he requested to condone his lapse and expressed his regret in the following terms;

I am grieved over the developments and stand rebuked. I reiterate my assurance that I shall not do anything which shall bring discredit to the

University. I express my profound regret for the lapse on my part and I request you to condone my lapse taking into consideration my small

contribution to Shakespeare Studies and to the University.

Thanking you,

Yours faithfully,

Sd/- x x x x

(Ramamoorthi).

Madurai

14.12.1992

The said explanation is dated 14.12.1992. In spite of his explanation accepting his guilt, he was asked to appear before the Syndicate Sub-

Committee at 11.00 a.m., on 17.12.1992 in the Syndicate room constituted to hear the oral explanation in connection with the plagiarism

committed by him. Pursuant to the said letter, the petitioner appeared before the Syndicate Subcommittee on 17.12.1992 and the following

statement had been obtained from him after completion of the enquiry:

1. Dr. Ramamoorthy has agreed that he is not the Author of the article and the publication in his name is cent per cent plagiarised.
2. Inasmuch as the reply to charge I is as above, he has nothing to produce as evidence by way of facts and figures to disprove charge II.
3. Dr. Ramamoorthy has agreed that he has let down the prestige of this University by this kind of plagiarism.
4. Dr. Ramamoorthy while agreeing that this is a grave misconduct requests the University to consider this lapse leniently in the light of his earlier

contribution to this University.

5. A national institution (A.I.U.) has taken serious note of this action. This is likely to damage the prestige of this University. Dr. Ramamoorthy has

agreed that he is responsible for this damage.

6. An international bibliographic journal also has threatened to mar the name of this University by the action of Dr. Ramamoorthy. This is an

irreparable damage and Dr. Ramamoorthy agrees that he is responsible for it but regrets.

Sd/- Ramamoorthy,

17.12.1992.

With regard to the above statement, it is the case of the petitioner that after considering his explanation, Dr. Natesan, Convenor of the

Subcommittee, told him that they have decided to accept his explanation, and that since it was not explicit, they had drafted a statement for him to

sign and it was being typed. It is the further case of the petitioner that Dr. Sripathy, Dean of the College Development went and brought a typed

sheet and handed over the same to Dr. Natesan. After perusing the typed sheet, Dr. Natesan handed the typed paper to the petitioner to sign. It is

further stated that at that time suddenly the electricity failed and the lights went off. Dr. Natesan told him that he could sign the typed sheet, as he

had only reworded his explanation. Believing his words, the petitioner signed the typed paper. This has been stated so in para. 11 of the affidavit.

This has been denied by the first respondent. In para. 19 of the counter affidavit, it is stated that the sub-committee consisted of Dr. T.R. Natesan

and Prof. Jagadeesah, the Syndicate Members. Dr. Sripathi and Prof. Subramaniam were deputed to assist the Sub-Committee. It is further stated

that during the enquiry on 17.12.1992, the Sub-Committee asked the petitioner to reply specifically to the charges levelled against him. The

petitioner preferred only an oral enquiry without any witness in the Questionnaire, At the time of enquiry the petitioner himself accepted all his

liabilities and has also signed a statement to that effect. Regarding the claim of the petitioner that at the relevant time the electricity failed and the

lights went off and that he signed the paper believing the words of Dr. Natesan without reading the contents, the first respondent has specifically

denied all those averments as false and it is blatant lie. The Registrar has also

explained in the counter affidavit that the Syndicate room is well ventilated and there will be plenty of natural light, even if the electricity fails and that too at about 12.00 noon. On a careful scrutiny of the stand taken by the petitioner as well as the counter affidavit of the first respondent and other materials, I am unable to accept the stand taken by the petitioner and it is un-believable to accept the case of the petitioner that without knowing the contents of the statement, on direction by Dr.

Natesan, he has merely signed the same. It is unfortunate that a person like the petitioner, who was a Reader of Madurai Kamaraj University at the relevant time, has made such irresponsible and un-believable statements. It is clear that after realising his mistake, the petitioner has submitted his

explanation accepting his guilt on 14.12.1992 and also made a similar statement on 17.12.1992. In such a circumstance, the contention that there

was no proper enquiry cannot be accepted. No doubt Mr. N.S. Sivam, learned Counsel for the petitioner, cited several decisions, namely,

(1) Spi Officer, K.C.C. Bank Ltd, v. Dy. Commissioner of Labour and Anr. (1998) 2 L.L.J. 1057; (2) State of Punjab Vs. Shri Kishan Das, ;

(3) Jagdish Prasad v. State of M.P. AIR 1961 SC. 1070; (4) Baradakanta Mishra Vs. High Court of Orissa and Another, (5) Bhagat Ram Vs.

State of Himachal Pradesh and Others, ; (6) Sawai Singh Vs. State of Rajasthan, ; (7) The state of U.P. and Others Vs. Ram Naresh Lal, ; (8)

Krishna Kumar Vs. Divisional Assistant Electrical Engineer and Others, .

In the light of my conclusion that Registrar of the University has not exceeded his power as per the Rules of the University and in view of the

constitution of the Sub-committee by the Syndicate, proceedings before it, explanation and the statement of the petitioner accepting his guilt and

approval of the same by the Syndicate, I am of the view that there is no need to refer all the above mentioned decisions in detail. In other words,

when the facts are clear, it is unnecessary to consider the decisions on the same aspects.

13. Mr. S. Jayaraman, learned Counsel appearing for the respondents, has very much relied on the following observation of Their Lordships in the

case of G. Sarana Vs. University of Lucknow and Others, : Para 15.

We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as

despite the fact that the appellant knew all the relevant facts, he did not, before appearing for the interview or at the time of the interview, raise

even his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the Committee and taken a

chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the constitution of the

Committee. This view gains strength from a decision of this Court in *Manak Lal Vs. Dr. Prem Chand*, wherein more or less similar circumstances,

it was held that the failure of the appellant to take the identical plea at the earlier stage of the proceedings created an effective bar of waiver against

him. The following observations made therein are worth quoting:

It seems clear that the appellant wanted to take a chance to secure a favourable report from the tribunal which was constituted and when he found

that he was confronted with an unfavourable report, he adopted the device of raising the present technical point.

It is clear that the petitioner knowing the constitution of the committee, appeared for the enquiry without raising any kind of objection against the

constitution of Sub-committee, and submitted his explanation and statement admitting his guilt, now it cannot be open to him to turn round and

question the constitution of Subcommittee when the decision was unfavourable to him. In the light of the two admissions, namely, in the form of

explanation on 14.12.1992 and statement on 17.12.1992 and in the light of the law laid down by the Apex Court referred to above, petitioner

cannot be permitted to object the constitution of Sub-committee before this Court.

14. Even though it is stated that the report of the Sub-committee was not furnished to the petitioner passing the impugned order of demotion, I am

of the view that in the light of the proceedings before the Sub-Committee as well as his explanation and statement accepting his guilt, no prejudice

was caused to him by not furnishing the report. The decision of mine in *S. Muthusaravanan Vs. Deputy Registrar, Co-Operative Societies*

(Housing), Special Officer, Avanashi Co-operative Housing Society, , also supports the above view.

15. It is further seen from the records that after considering the Minutes of the meeting of the Syndicate Sub-committee held on 17.12.1992, the

Syndicate in the meeting held on 28th December, 1992 resolved that the petitioner be demoted to the lowest cadre in the lowest post that is

Lecturer with minimum benefit for a period of six months and also resolved that the petitioner be debarred from guiding Research scholars

forthwith. I am satisfied that on the basis of the initial complaint by the Secretary of the Association of Universities, New Delhi, the Vice-

Chancellor himself has requested the petitioner to offer his comments and thereafter the Syndicate has constituted a Sub-committee and charges

were framed against him. The petitioner was afforded adequate opportunity to put forth his case. He submitted his explanation admitting his guilt on

14.12.1992 and also made a statement admitting and regretting his action on 17.12.1992 and the Syndicate, which is the competent body, has

passed the impugned proceedings demoting him to the lowest cadre in the lowest post i.e., Lecturer. The respondents have fully complied with the

procedure as provided under the Rules and Regulations of the University and the petitioner was also afforded adequate opportunity.

In such a circumstance, interference by this Court under Article 226 of the Constitution is very limited. Further, by the act of the petitioner, namely,

committing plagiarism, undoubtedly he had lowered the image of Madurai Kamaraj University and the respondents are justified in taking

appropriate action. The allegations made against the second respondent Vice-Chancellor are baseless and cannot be accepted. The petitioner,

who had stolen the article of another person and degraded the name of the University and the Nation, cannot try to escape in the umbrella by

saying that plagiarism is neither dereliction of duty nor a misconduct. As rightly contended, the act of plagiarism can be construed as misconduct

and dereliction of duty since the plagiarized article was added to his contributions and was considered for promotion. Equally his contention that

the author W.B. Thorne has not made any complaint cannot be accepted, since it was he who had requested the Secretary of the Association of

Indian Universities to look into the matter and take action. As a matter of fact, the University in which W.B. Thorne was working had referred the

matter to the Association of Indian Universities and in turn the Association of Indian Universities referred the matter to the Madurai Kamaraj

University to take necessary action on the petitioner. I am satisfied that the name of Madurai Kamaraj University was affected very badly because

of the conduct of the petitioner in plagiarizing the work of W.B. Thorne. Though it is stated that two separate enquiries have to be conducted, for

the reasons mentioned above, the said contention is also liable to be rejected. I am satisfied that the demotion awarded to the petitioner as a

Lecturer along with the reduction to basic pay is fully justified since the personal plagiarism committed by the petitioner, the reputation of the other

research scholars in our State and country is also at stake. If any indulgence is shown to persons like the petitioner, who had verbatim plagiarized

another man's article, the name of the University in the international arena will be ruined.

16. In the light of what is stated above, I do not find any error or infirmity in the impugned proceedings of the respondents dated 12.1.1993;

consequently the writ petition fails and the same is dismissed with costs. Counsel fee Rs. 1,000.