
(2007) 03 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 4519 of 2007

Dr. T.M. Aminabhavi

APPELLANT

Vs

Karnataka University

RESPONDENT

Date of Decision : 22-03-2007

Acts Referred:

Karnataka Universities Act, 2000 — Section 11, 8

Citation : (2007) 2 KarLJ 71

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : S.M. Chandrashekar, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Petitioner questioning the legality and validity of the resolution passed by first respondent - Karnataka University dated 8th January 2007 in proceedings bearing No. KU-Syndicate/Meeting/2006-07/58 and the Articles of Charges issued by second respondent dated 27th January 2007 bearing No. KU / DPAR(T)2007/604 vide Annexures A and B respectively, has presented the instant writ petition.

2. The brief facts of the case of petitioner is that, petitioner was appointed as Lecturer in the respondent -University in the Department of Chemistry. Thereafter, petitioner has discharged the duties of Director of Polymer Science. an Institute. established by the University Grants Commission (UGC). When things stood thus, the Syndicate of the first respondent -University has passed the resolution in its meeting held on 9th January 2007, authorizing the second respondent herein to initiate the departmental enquiry against the petitioner vide Annexure A. The second respondent has issued the Articles of Charges against the petitioner vide Annexure B dated 27th January 2007. Being aggrieved by the impugned decision taken by Syndicate and the Articles of Charges issued by second respondent, petitioner herein felt necessitated to present the instant writ petition, assailing the correctness of the impugned decision of the Syndicate and

the Articles of Charges issued by second respondent.

3. The principal submission canvassed by learned Counsel appearing for petitioner is that, the impugned resolution passed by the Syndicate is illegal, arbitrary and without jurisdiction and the Article of Charges issued as per the authorization given to the second respondent by Syndicate is liable to be quashed as arbitrary, violative of Article 14 of the Constitution of India. Further, he vehemently submitted that, the second respondent has no jurisdiction to issue the Articles of Charges nor the Syndicate has any power to initiate or direct to hold Departmental Enquiry against the petitioner. To substantiate his submission, he submitted that, the Chancellor, being the Disciplinary Authority as envisaged u/s 8 read with Section 11 of the Karnataka Universities Act, is the authority for initiating the proceedings and not the Syndicate of first respondent. Hence, the impugned decision taken by the Syndicate and the Articles of Charges issued by the second respondent vide Annexures A and B respectively cannot be sustained. Therefore, the same are liable to be set aside. The material on record also shows that, the alleged incident has taken place when the petitioner was working as Director of Polymer Science Institute for the act done while discharging his duties as Director of the Polymer Science Institute and therefore, the respondents have no right or authority to initiate the proceedings against the petitioner. Further, he submitted that, petitioner has attained the age of superannuation on 16th January 2007 and the Articles of Charges is issued on 27th January 2007. Hence, the same is also illegal and unsustainable.

4. After hearing learned Counsel appearing for petitioner and after careful perusal of the impugned decision taken by the Syndicate and the Articles of Charges issued by second respondent, Statement of Imputation as required by Rules 3(1) and 3(3)(a) of Karnatak University Employees Classification, Control and Appeal Rules, 1998, it emerges that, the petitioner cannot maintain this writ petition, at this stage, as there is no cause of action. In the instant case, it is only the Articles of Charges that is issued. In such an event, it is always very much open for petitioner to file the reply to the said Articles of Charges issued by second respondent taking all the valid grounds, that are taken in the instant writ petition. Petitioner cannot maintain the instant writ petition seeking a relief as sought and that, the said relief is also premature in nature.

5. It is significant to note that, the Apex Court in the case of Union of India and Anr. v. Kunisetty Satyanarayana reported in 2007 AIR SCW 607 regarding the question of maintainability of writ petition, has held that, A mere charge-sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order, which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is well settled that a writ lies when some right of any party is infringed. Therefore, mere issuance of Article of Charges does not infringe the right of any one. It is only when the final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance." If the

ratio of the law laid down by the Apex Court in the aforesaid judgment is taken into consideration, I am of the view that, the said case directly applies to the facts of the case on hand. Therefore, petitioner cannot invoke the extra-ordinary jurisdiction as envisaged under the Articles 226 and 227 of the Constitution of India, at this stage as held by the Apex Court.

6. Further, it is pertinent to note that, Rule 11 of the Karnataka Universities Employees Service (Conduct) Rules, stipulates that no employee of the University, except in accordance with any general orders of His Excellency the Chancellor or Vice Chancellor, shall communicate directly or indirectly any official document, or any sort thereof, or any information to any other employee or to any other person, to whom it is not intended.

7. Therefore, regarding the grounds urged by the petitioner that, both the Syndicate and the second respondent have no right or jurisdiction to initiate the proceedings or to authorize the second respondent to initiate the disciplinary proceedings and consequently the second respondent to issue the Articles of charges, I am of the view that, it is very much open for petitioner to take such stand by way of filing his reply to the Articles of Charges issued by second respondent.

8. Therefore, without expressing any opinion on further merits and demerits of petitioner's case, I am of the considered view that, there is no justification for this Court to entertain the instant writ petition, at this stage.

9. In the light of the facts and circumstances of the case, as stated above, the writ petition filed by petitioner is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.