

(2017) 04 MAD CK 0066
In the Madras High Court
Case No : 18345 of 2016

Dr.V.Latha

APPELLANT

Vs

State of Tamil Nadu & Ors

RESPONDENT

Date of Decision : 25-04-2017

Acts Referred:

Citation : (2017) 04 MAD CK 0066

Hon'ble Judges : S.S.Sundar

Bench : SINGLE BENCH

Advocate : S.S.Sundar

Judgement

1. This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to

the impugned order passed by the third respondent dated 11.03.2015, and the consequential impugned orders passed by the third respondent in

Na.Ka.No. 1784/2015/Sa 3, dated 07.05.2015, Na.Ka.No.1784/2015/Sa 3, dated 03.11.2015 and No.1862/the 1/2011, dated 02.09.2016

and quash the same as illegal, arbitrary, without jurisdiction vested with it and in violation of principles of natural justice and further more direct the

third respondent to hand over the petitioner's four Ph.D., students and six M.Phil., students to the petitioner.

2. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2, the learned counsel

appearing for the third respondent as well as the learned Senior Counsel appearing for the fourth respondent.

3. The petitioner joined as Lecturer in the Tamil University, Tanjavur, in the year 2007 and her service was also regularized in the year 2010. She

is working as of now as Assistant Professor and Head of Department of Sculpture with effect from 01.07.2015. It is the case of the petitioner that

she was the Guide for several Ph.D., students and M.Phil., students and that nine Ph.D., students and 35 M.Phil students have completed their

course with the guidance of the petitioner.

4. It appears that four of her students, who were doing their research and who are attached to the petitioner, gave a complaint on 25.02.2015

against the petitioner. However, without any enquiry and without issuing any notice, the third respondent passed an order banning the petitioner to

continue as a Guide for a period of two years. This order was passed on 11.03.2015, at the request of the students and on the basis of the

resolution of a Committee, followed by resolution of the Syndicate. However, on the representation of the petitioner, the order dated 11.03.2015

was set aside. It appears that pursuant to the ban order dated 11.03.2015, the University transferred the Doctorate students from the petitioner to

other Assistant Professors in the same department of the University. Hence, at the time when the order, cancelling the order dated 11.03.2015

was passed on 07.05.2015, the University passed an order directing the few students, who have given complaint against the petitioner to continue

their research under their respective Guides named by the University earlier. Pursuant to this, one of the research students, namely, the fourth

respondent in the Writ Petition has completed her research and by proceedings dated 02.09.2016, the third respondent has appointed one

Dr.A.Marisamy, Associate Professor, Department of History, working in Thiru.Vi.Ka.Government Arts College, Thiruvarur, as the Viva Voce

Examiner for the fourth respondent. It is under these circumstances, the petitioner has filed the present Writ Petition challenging not only the order

dated 11.03.2015 and the proceedings dated 07.05.2015, but also the appointment of Viva Voce Examiner for the fourth respondent. Though the

petitioner has challenged the communication dated 02.09.2016 appointing the external Viva Voce Examiner to conduct viva voce and to submit

report, the fourth respondent was not impleaded. Since the viva voce was not conducted, the fourth respondent filed the petition to implead herself

as fourth respondent in the above Writ Petition. The petition to implead the fourth respondent was allowed by this Court earlier. Thereafter, the

fourth respondent has also filed a petition to vacate the interim stay granted in W.M.P.(MD)No.13206 of 2016 and requested this Court to

dismiss the Writ Petition in W.P.(MD)No.18345 of 2016.

5. In the affidavit filed in support of the petition to vacate the interim stay granted by this Court, the fourth respondent in this Writ Petition admitted

that she joined in the third respondent University for pursuing Ph.D, during 2011 and she had been under the guidance of the petitioner who is the

Head of the Department, Department of Sculpture at Tamil University. It was her case that the petitioner treated her students like slaves and she

did not give any respect to the students, apart from asking them to do her personal work. The fourth respondent further submitted that no student

will bear to question her as she used to threaten the students by saying that they would not complete their Ph.D. It was therefore the case of the

fourth respondent that the students were constrained to give a complaint against the petitioner on 25.02.2015 before the Registrar of third

respondent university. The University convened a meeting and passed a resolution relating to this issue and decided to debar the petitioner for a

period of two years from guiding any student. Immediately thereafter, by proceedings dated 17.03.2015, Mr.K.Kandan, Assistant Professor of

the same department was appointed as the fourth respondent's guide so that the fourth respondent would continue her Ph.D. It is also pertinent to

mention that the fourth respondent has stated in her affidavit that the title of her subject matter of research is different when she pursued her

research under Mr.K.Kandan. The new title is ""History of Kulathur Taluk Temple Study"". Thereafter, the fourth respondent completed her

research and submitted her thesis as early as on 16.01.2016. According to her, when she was awaiting for viva voce, in view of the pendency of

this Writ Petition and the interim order granted by this Court earlier, the fourth respondent states that the date fixed for viva voce was postponed.

6. It is further submitted by the fourth respondent that the petitioner had given letter seeking apology and it was only thereafter, the University

revoked the earlier order dated 11.03.2015 by proceedings dated 07.05.2015. The grievance of the fourth respondent in the present Writ Petition

is that despite the proceedings of the University dated 02.09.2016 directing her guide to conduct viva voce to her, because of the pendency of the

above writ petition, she could not complete her Ph.D. It was also alleged that the petitioner has moved this Court with an ulterior motive not to

conduct viva voce to the students who are under the petitioner. The fourth respondent also pointed out that the Writ Petition is liable to be

dismissed on the ground of laches as the petitioner has filed the Writ Petition after a long delay of 11/2 years from the date of issuance of the order

dated 07.05.2015.

7. The learned Senior Counsel appearing for the fourth respondent during his arguments pointed out further that the Writ Petition itself has been

filed only when the University appointed the external examiner to conduct viva voce for the petitioner. Hence, he alleged mala fides.

8. In the entire affidavit filed in support of the petition, the petitioner though described the impugned order as an order inflicting the punishment on

the petitioner, no prejudice or injury that is caused to the petitioner is neither alleged nor demonstrated before this Court. The petitioner has not

challenged the order by which the students were transferred from the petitioner to enable them to pursue Ph.D. with different Assistant Professors

as their guide. In the order dated 11.03.2015, there is no direction for the transfer of students. When the order dated 11.03.2015 is set aside, the

petitioner has no cause of action to challenge the proceedings dated 11.03.2015 in the present Writ Petition. However, the petitioner has

challenged the proceedings dated 07.05.2015 whereby the students who are doing their research under differ Professors by way of transfer are

directed to continue their research with their new guides despite the order dated 11.03.2015 is being set aside. The petitioner, if really aggrieved,

would have approached this Court immediately when the students were transferred from the petitioner to some other Department. Despite an

order was passed transferring the students from the petitioner to other Professors, the petitioner has not chosen to challenge the same. However,

consequential order, dated 07.05.2015, directing the students to continue their research with their new guides is challenged only when the

University appoint the external examiners for conducting viva voce to the fourth respondent. This clearly shows that the Writ Petition has been filed

with an unexplained delay of 1 1/2 of years. Further, it is also evident that the real cause for filing the Writ Petition is only to prevent the fourth

respondent from completing her course.

9. In the above circumstances, prima facie this Court is of the view that the Writ Petition is liable to be dismissed on the ground of laches and for

want of bona fides. The next question arose in this Writ Petition is whether the order impugned in the Writ Petition is an order causing any hardship

to the petitioner. The petitioner has not averred or demonstrated before this Court by pointing out the relevant regulations or statutory provisions

about the adverse impact of the order in terms of affecting the petitioner's service conditions. It may be true that the petitioner's reputation is likely

to be damaged once, it is regarded that the students who are doing research under the petitioner were transferred to some other faculty member on

the allegations of the students made against the petitioner. This is not exactly the case here. Upon receiving the complaint from the fourth

respondent against the petitioner, without conducting any enquiry, the students were transferred from the petitioner to some other faculty member

only to save the face of the petitioner as well as the third respondent University. It is specifically averred that the order dated 11.03.2015 was

revoked subsequently only because the petitioner was apologetic. However, this Court is not inclined to go into those details. Suffice to point out

that there is no serious prejudice caused to the petitioner merely because the students were transferred from the petitioner to some other faculty

member. It may be true from the stand point of the petitioner that the decision of the third respondent would cause some mental strain if she is

really not guilty of the complaints made against her by the students. However, more than that what this Court need to consider is the interest of the

students. The students who have given a complaint making serious allegations against the petitioner if allowed to continue their research under the

petitioner, it will be a great mischief and it will be unethical to allow the students to continue their research under the petitioner. In the above

circumstance, this Court is not inclined to entertain this Writ Petition. As pointed out earlier, this Writ Petition is not only liable to be dismissed on

the ground of laches but also on the ground of lack of bona fides and merits.

10. It is also represented by the learned Counsel for the petitioner that some of the students who were doing research under the petitioner have no

grievance to continue their research under the petitioner. Hence, there may be a

direction to re-transfer those students to enable them to continue their research under the guidance of the petitioner. This factual issue need not be decided at this stage as the petitioner has not pursued her remedy immediately after the order of transfer was passed pursuant to the order dated 11.03.2015. It is open to the petitioner to give a representation, in this regard and the University may after hearing those students, if they are willing, can pass appropriate orders.

11. With the above observation, the Writ Petition is dismissed. No costs. Consequently connected W.M.P.(MD)Nos. 13206 of 2016, 4346 and 4347 of 2017 are closed.