
(1998) 03 AP CK 0059
In the Andhra Pradesh High Court
Case No : W.A. No. 385 of 1998

Jawaharlal Nehru Technological University, Hyderabad and
Another

APPELLANT

Vs

Dr. Vijay Kumar

RESPONDENT

Date of Decision : 23-03-1998

Acts Referred:

Constitution of India, 1950 — Article 12

Jawaharlal Nehru Technological University Act, 1972 — Section 8

Citation : (1998) 4 ALD 294 : (1998) 4 ALT 136 : (1998) 2 APLJ 441

Hon'ble Judges : Umesh Chandra Banerjee, C.J.; Syed Saadatulla Hussaini, J

Bench : Division Bench

Advocate : Mr.C. Kodanadaram, SC for J.N.T.U, for the Appellant; Mr. J. Sudheer, for the Respondent

Judgement

Umesh Chandra Banerjee, C.J.—The most accepted methodology of the working of a Government or Governmental agency is fairness. In the event of there being any lack of fairness, there ought not to be any hesitations on the part of the law Courts to deprecate the same. The law Courts exist for the society and in the event, redressal is sought for, and in the event, the law Court feels it expedient that the grievance may otherwise have some justification, it would be a plain exercise of judicial function to rise upto the occasion and administer the justice in accordance with law. The contextual facts depict that the writ petitioner has been working with Jawaharlal Nehru Technological University as Senior Professor for about last thirty years. He is otherwise a highly qualified person and obviously maintained a good name and reputation at the University and there is as a matter of fact no grievance of inefficiency existing against the writ petitioner. The factual matrix of the situation depicts that the writ petitioner was appointed by the Vice-Chancellor as Rector of the University subject to the ratification of the Executive Council in terms of the Statute (Jawaharlal Nehru Technological University Act, 1972 - for short "the Act"). This appointment, however, as appears from the record, has been subjected to the confirmation or ratification of

the Executive Council. For convenience sake, the order of appointment, dated 13-11-1997 is set out herein below:

"Under Section 8(A) of the JNTU Act of 1988 and subject to ratification by the Executive Council, the Vice Chancellor is pleased to appoint Dr. Vijay Kumar, Director, Academic and Planning as Rector of the JNT University, Hyderabad in addition to the duties of the post of Director of Academic and Planning until further orders.

Dr. Vijay Kumar will continue to draw his pay and allowances in the new post on his own scale of pay of Rs.4,500-7,300 (AICTE 86)

These orders will come into force with immediate effect.""

2. The matter however, came up for ratification before the Executive Council and the Executive Council by its order dated 17-1 -1998 did ratify such appointment though however, for a limited period viz,, upto the afternoon of 17-1-1998. For convenience sake, the order of the Executive Council dated 17-1 -198 8 is set out herein below :

" "In the University Proceedings read above Dr. Vijay Kumar, Director, Academic and Planning was appointed as Rector of the University in addition to the duties of the post of Director, Academic and Planning until further orders, subject to ratification by the Executive Council.

An item was placed before the "XIII" meeting of the Executive Council held on 17-1-1998 to ratify the appointment of Dr. Vijay Kumar as Rector of the University. The Executive Council has resolved to ratify the appointment of Dr. Vijay Kumar as the Rector of the University till the A.N. of 17-1-1998.

In pursuance of the resolution, Dr. Vijay Kumar is relieved from the post of Rector with immediate effect i.e. from the A.N. of 17-1-1998.

Dr. Vijay Kumar will continue to hold the post of Director, Academic and Planning.""

3. It is" this order which is under challenge before the learned single Judge on the ground that the Executive Council ought not to have withdrawn the benefits conferred upon the writ petitioner, specially after ratification of the benefit upto a particular date. The learned single Judge while dealing with the matter did record his acceptance in regard to such submission and did in fact pass an order to the effect that the action of the University cannot be said to be sustainable in law and accordingly impugned order was quashed and the respondents were directed to continue the petitioner as Rector of the first respondent University.

4. The University, however, being aggrieved by the order challenges the same mainly on the ground that the learned single Judge fell into an error in the matter of true and correct interpretation of Section 8(A) read with Section 11 of the Act. Be it noted that Jawaharlal Nehru Technological University Act, 1972 (Act 16 of 1972) has been engrafted on the Statute book to provide for the

establishment and incorporation of a Technological University in the State of Andhra Pradesh and for matters connected therewith. The Statute itself provides that the University has a Chancellor being the prime Officer of the University and the next in rank are - the Vice-Chancellor; the Rector; the Registrar; the Director; the Financial Advisor-cum-Chief Accounts Officer; the Principals of constituent colleges, and such other persons in the service of the University as may be prescribed. The Statute further provides that the Governor of Andhra Pradesh who shall, by virtue of his Office, be the Head of the University as the Chancellor of the University and he shall perform such functions as may be entrusted to him by or under the Act. The Vice-Chancellor is to be a whole time officer of the University and in terms of Section 18 of the Act, the Vice-Chancellor notwithstanding anything contained in the Act and until such time as an Authority is duly constituted, subject to the approval of the Chancellor, appoint any / Officer or constitute any committee temporarily . to exercise and perform all or any of the powers and functions of such authority under the Act. The Vice-Chancellor therefore, has been conferred with very wide and important powers in the matter of administration of the University in terms of the provisions of the Statute.

5. In terms of Section 18, the Rector is to be appointed by the Executive Council on the recommendation of the Vice-Chancellor and shall exercise such powers and perform such functions as may be prescribed by the Statute. The appointment of the Rector therefore in terms of the provisions of the Statute is with the Executive Council, though, however, on the recommendation of the Vice-Chancellor.

6. The factual back-drops as noted above depict that in fact the Vice-Chancellor recommended, subject to the ratification of the Executive Council, the writ petitioner to act as Rector of the University. The Vice-Chancellor being the second highest personality in the University in terms of the Statute, thought it fit to recommend the name of the writ petitioner as the Rector of the University.- Incidentally, be it noted that the Executive Council cannot be termed to be strictly a body consisting of technical experts, since, in terms of the provisions of the Statute, Executive Council consists of members from various walks of life including some official members. The Executive Council cannot be termed to be possessing such expertise as may be expected of a Technological University. As such the technical skill lies with the Vice-Chancellor for the purpose of appointment and Section 8(A) of the Act has specifically made it to be so. The language of Section 8(A) expressly records so and lends assistance to the interpretation as given above. The Vice-Chancellor is technical head of the University, being responsible for all matters connected with the administration of the University, having due regard to the powers conferred on him in terms of Section 18 as noted above.

7. Be that as it may, the grievance of the writ petitioner is in regard to the span of appointment. It is a fact that the Executive Council did in fact ratify the

appointment. Had there been no ratification, the stand of the University would have been clearer in the contextual facts. But unfortunately, as the facts depict, such ratification does exist on record. But there is a curtailment of that right which stands confirmed by the Executive Council itself. By reason of curtailment of such a right, in our view, there ought to have been some reasons appearing on the face of the record, in the absence of which the order cannot, by any stretch, be termed to be justifiable in nature. The authority concerned ought to have exercised the powers in a manner and in accordance with known principles of law and not do the same. Curtailment of right itself is a civil consequence which visits the petitioner without being informed of any reason whatsoever. In our view, this is not an acceptable way of doing things, specially by an Agency as that of the University, being a creature of Statute and an authority within the meaning of Article 12 of the Constitution of India. The learned single Judge had the privilege of inspecting the records. The only reason that is available on record is that the Executive Council wants a technical person. In our view, after conferring the right on the writ petitioner, the question of curtailment thereof with such a reason, viz., the Executive Council wants to have a technical person to be the Rector, does not and cannot arise. The right stands created by ratification and such right cannot be taken away administratively on the whim or caprice of the Council. The Vice-Chancellor thought it prudent to appoint the writ petitioner and in fact the appointment did take place. The Executive Council cannot, without rhyme or reason after according ratification, withdraw such privilege. There must be cogent reasons for such withdrawal and unfortunately, the reasons put-forth cannot be termed to be any reason at all for less cogent reasons.

8. In the view noted above, we do not find any reason to interfere with the order of the learned single Judge. As such this appeal fails and is dismissed. No order as to costs.