
(1972) 12 KAR CK 0002
In the Karnataka High Court
Case No : Writ Petition No. 4320 of 1969

R.P. Jayarama Reddy

APPELLANT

Vs

The Bangalore University and Others

RESPONDENT

Date of Decision : 04-12-1972

Acts Referred:

Bangalore University Act, 1964 — Section 22 (2) (a), 28 (2)
Constitution of India, 1950 — Article 226

Citation : (1972) 12 KAR CK 0002

Hon'ble Judges : V.S. Malimath, J; E.S. Venkataramiah, J

Bench : Division Bench

Advocate : S.K. Venkataranga Iyengar, for the Appellant; S. Vijayashankar, for Respondent No. 1, K.S. Satya Murthy, for Respondent No. 3, C. Siddaiah and Mohanrangam, for the Respondent

Final Decision : Dismissed

Judgement

E.S. Venkataramiah, J.—The Petitioner is a member of the Senate which is one of the authorities constituted under the Bangalore University Act, 1964 (hereinafter referred to as the Act). In this writ petition, he has challenged the appointments of Respondents 3, 4 and 5 as Readers in Civil Engineering in the University College of Engineering, pursuant to the resolutions passed by the Syndicate of the University.

2. The contention of the Petitioner in regard to the impugned appointments is that there has been noncompliance with the rules or regulations framed by the University governing the appointments of Respondents 3, 4 and 5. It is also contended that Respondent No. 3 did not possess the requisite qualifications for the post to which he was appointed. When the above writ petition was taken up for hearing Shri S. Vijaya Shankar learned Counsel appearing for the University raised a preliminary objection regarding the maintainability of the petition. Elaborating the above submission, he contended, that the Petitioner had not sufficient interest in the eye of law to file the above petition questioning the

appointments of Respondents 3, 4 and 5. In the above petition, there is no prayer made for the issue of a writ in the nature of quo warranto against Respondents 3, 4 and 5. What, however, is prayed is that certain resolutions passed by the Syndicate be quashed and that the appointments of Respondents 3, 4 and 5 made pursuant to the said resolutions be quashed. Shri Vijaya Shankar, learned Counsel appearing for the University, contended that the Petitioner could not maintain this petition on the sole ground that he was a member of the Senate which one of the authorities of the University, since the interest was too remote. It was contended that the Petitioner should establish before the Court before seeking the relief under Article 226 of the Constitution that he has sufficient interest personal or fiduciary-in the subject-matter of litigation.

3. The Senate and the Syndicate are two of the authorities enumerated in Section 17 of the Act. The power to appoint Professors Readers Lecturers and other members of the teaching staff of the University is vested in the Syndicate by Sub-section (2)(a) of Section 22 of the Act. The procedure prescribed for the appointment of a Reader for any subject in the University service is governed by Section 28(2) of the Act, which prescribes that the Board of Appointment should first consider the case of persons who have to be appointed as Readers and then make appropriate recommendations to the Syndicate in that behalf. On receipt of the recommendations of the Board of Appointment the Syndicate is required to make the appointments on the basis of such recommendations. Section 20 of the Act deals with the powers and functions of the Senate. The power of making any appointment to any post in the University service is not one of the enumerated powers under Sub-section (2) of Section 20. Sub-section (1) of Section 20, however, provides that the Senate shall be the supreme authority of the University and shall have the power to review the action of the Syndicate and Academic Council have acted in accordance with the powers conferred upon it under this Act the Statutes, Ordinances or Regulations and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes. Relying upon the above Sub-section. Shri S.K. Venkataranga Iyengar learned Counsel for the Petitioner, contended that the Petitioner. who was a member of the Senate which was the Supreme authority of the University, was entitled to bring up before this Court under Article 226 of the Constitution any illegal action of any of the authorities of the University and request the Court to quash the same and to issue appropriate directions in that behalf even though the Petitioner may not have any other kind of interest, personal or fiduciary. The question for consideration in this writ petition, therefore is, whether the provisions of Sub-section (1) of Section 20 clothe the Petitioner with sufficient interest to do so.

4. Section 20 deals only with the powers and functions of the Senate as a collective body, and not with the power or the right of any individual member thereof. The Statutes framed u/s 32 of the Act, provide for the constitution, functions and powers of the authorities of the University and such other bodies

as may be declared to be authorities of the University from time to time. Chapter III of the Statutes deals with the provisions relating to the Senate which is one of the authorities of the University. Apart from what is provided by Statutes 9 to 36 appearing in Chapter III of the Statutes, no other Statute or provision of law is shown to us which confers any right on a member of the Senate to raise any dispute outside the Senate regarding the administration of the affairs of the University. It may be that under Sub-section (1) of Section 20, the Senate functioning as a collective body may if circumstances warrant, act as the supreme authority of the University and review the action of the Syndicate. But a member of the Senate cannot, solely by reason of Sub-section (1) of Section 20, claim to have sufficient interest to maintain a writ petition.

5. It is well settled that the Petitioner must demonstrate before the Court that he has sufficient interest to maintain a writ petition. Shri Venkataranga Iyengar, however, argues that the said rule has to be applied in the light of what the Supreme Court has observed in *Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others*, in which the Supreme Court held that the President of a Panchayat Samiti was entitled to maintain a writ petition in which a decision of the Government regarding the establishment of a Primary Health Centre was challenged. The facts of that case are these: The Petitioner was the President of the Panchayat Samiti of Dharmajigudem and he was also the President of a Committee appointed by the villagers of Dharmajigudem for the purpose of collecting contributions from the villagers for setting up Primary Health Centre. The said Committee had collected a large sum of money from the villagers. He had also represented the village in all its dealings with the Block Development Committee and the Panchayat Samiti in the matter of location of the Primary Health Centre at Dharimajigudem. His conduct, the acquiescence on the part of the other members of the Committee and the treatment meted out to him by the authorities concerned, supported the inference that he was authorized to act on behalf of the Committee. In the above circumstances the Supreme Court came to the conclusion that the Petitioner had sufficient interest which was fiduciary in character, to maintain the above petition. In the present case, the Petitioner cannot claim the same qualifications which the Petitioner in *Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others*, had. Reliance was placed upon a decision of the High Court of Madras in the matter of *G.A. Natesan* ILR 40 Mad 125 : (AIR 1918 Mad 763) in support of the proposition that a member of the Senate of a University should be considered as an "injured person", having sufficient interest in the eye of law to maintain the petition. We find that the facts of the above case are clearly distinguishable from the facts of the present case. The Petitioner in the above Madras case, who was a member of the Senate of the University of Madras, sought to enforce a regulation, which entitled a member of a Senate to forward his protest or memorandum in respect of any resolution which was the subject-matter of discussion before the Senate, to the Governor-General in Council for his consideration. The High Court of Madras, while dealing with the above regulation, came to the conclusion that it conferred

the right on every member of the Senate to get his protest or memorandum forwarded to the Governor-General in Council as required by the said regulation, without in any way being mutilated or modified by any of the authorities of the University. The Petitioner before us is not complaining against any such infringement of rule or regulation having the force of law.

6. Dealing with the case of appointment of a Teacher in a University this Court in *Venkataswami Setti v. University of Mysore* (1963) 2 M LJ 383 : (AIR 1964 Mys 159). observed that ordinarily a Petitioner would have to make out some personal interest which the law recognizes as sufficient, unless having regard to the nature of the case, the Petitioner is merely in the position of an informer or a relator and that the post of a Professor or of a Reader in the University established by a Statute was not a public office in respect of which a quo warranto would lie. As already observed, the Petitioner has not prayed for the issue of a writ in the nature of quo warranto in this case. He is not also a rival candidate. The only ground on which the Petitioner has tried to maintain his writ petition is that he was a member of the Senate. We are of the opinion that the fact that the Petitioner is a member of the Senate is not sufficient in the eye of law to clothe him with necessary interest to challenge the appointments made by the Syndicate.

7. In the view that we have taken on the question of the Petitioner's locus standi to maintain this petition, we find it unnecessary to go into the merits of the case. The petition, therefore, fails and is dismissed. No costs.