

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

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CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.5862 of 2024

and

W.M.P.Nos.6491 & 6493 of 2024

Prof. Dr.M.Srinivasan

... Petitioner

Vs.

- 1.The Chancellor of Universities,
Raj Bhavan – Tamil Nadu,
Guindy,
Chennai – 600 022.
- 2.The Principal Secretary to the Government,
Department of Higher Education,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
- 3.The University of Madras,
Represented by its Registrar,
Chepauk,
Chennai – 600 005.
- 4.The Vice Chancellor /
The Convener, VC Convener Committee,
University of Madras,



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Chepauk,
Chennai – 600 005.

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5.The Registrar,
University of Madras,
Chepauk,
Chennai – 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Declaration, declaring the Amendment of the Statute 25 in Chapter IX, Volume 1, University Calendar 2016 with regard to the rotation of the Headships of the University Departments as per the Resolution No.75 dated 14.02.2023 of the Syndicate and approval of the Senate dated 25.03.2023 of the University of Madras as assented by the 1st respondent and as illegal and the same is ultra vires the Madras University Act, 1923 besides the same being vague incomplete and incapable of implementation.

For Petitioner : Mr.S.Vijayakumar
Senior Counsel
For Mr.K.Prabakar

For R2 : Mr.D.Ravichander
Special Government Pleader

For R3 to R5 : Mrs.V.Sudha



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ORDER

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[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The writ of declaration is against the amendment of the Statute 25 in Chapter IX, Volume 1, University Calendar 2016 with regard to the rotation of the Headships in the Madras University Departments as per Resolution No.75 dated 14.02.2023 of the Syndicate and approval of the Senate dated 25.03.2023 of the University of Madras as assented by the Chancellor of Universities as illegal and ultra vires to the Madras University Act, 1923.

2. The petitioner joined as a Lecturer on 16.11.2000 in the Department of Criminology of Madras University. He was promoted to the post of Professor in July, 2012 and by virtue of his seniority, he has been designated as the Head of the Department of Criminology as per the Statute 25 in Chapter IX, Volume 1, University Calender, being a Statute framed under Section 56 of the Madras University Act, 1923.

3. The Syndicate of Madras University at its meeting held on 14th February, 2023 passed a resolution amending the Statute 25 in Chapter IX, Volume 1, Laws of Universities that it had considered the opinion survey



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report obtained from the Professors for rotation of Headship was accepted and the rotation of Headships of the Departments of University, be executed based on the performance and merit of the professors of concerned Departments. The Senate of the Madras University approved the said resolution of the Syndicate in its annual meeting held on 25.03.2023.

4. It is not in dispute that the Chancellor of the Universities assented to the said amendment, which was communicated by the Deputy Secretary to the Governor (U) of Tamil Nadu dated 09.05.2023. Thus, the present writ petition came to be instituted challenging the said amendment.

5. Mr.S.Vijayakumar, the learned Senior Counsel appearing on behalf of the petitioner would mainly contend that Section 30 of the Madras University Act, 1923 speaks about 'Statutes how made'. Sub Section (4) to Section 30 denotes that the Syndicate shall not propose the draft of any Statute or of amendment to a Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon proposal; any opinion so expressed shall be in writing and shall be considered by the Senate and shall be submitted to the Chancellor. In the present case, no opinion survey report



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has been obtained nor circulated to the Senate members and therefore, the entire procedures followed for amending the Statute 25, Chapter IX Volume 1 is violative of Section 30 of the Madras University Act.

6. Subsequent to the impugned amendment, rotation of Headship was accepted and made as a law, and the rotation of the headship is to be executed based on the performance and the merit of the Professors of the concerned department. The Senate has failed to follow the procedures to be adopted under Section 30 of the Madras University Act. Therefore, the impugned amendment executed is to be declared as null and void.

7. The learned Standing Counsel appearing on behalf of the Madras University would strenuously oppose by stating that the procedures as contemplated under the Madras University Act had been scrupulously followed both by the Syndicate and Senate and the resolution amending Statute 25 in Chapter IX, Volume 1, Laws of Universities are approved by the Chancellor of Universities.

8. The arguments of the respective learned Senior Counsel and the learned Standing Counsel for the University are considered.



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WEB COPY 9. Pre-amended Statute 25 Chapter IX of the Madras University

Calender reads as under:

“25. In a University Department in which if there are Professors then the Senior most Professor shall be the Head of the Department and all other Professors, Readers and Lecturers, if any, shall work under the direction of the Professor and Head of the Department concerned with the subject, and shall assist him in the performance of his duties as defined in law 22, 23 and 24 of this Chapter.”

10. The impugned **amended** Statute 25 Chapter IX Volume 1 of the University Calender reads as under:

“In a University department in which if there are Professors then the Professor in the Department shall be the Head of the Department on rotation, based on the performance and the merit of the Professors of the concerned Department and all the other Professors, Readers and Lecturers, if any, shall work under the direction of the Professor and Head of the Department concerned with the subject, and shall assist him in the performance of his duties as defined in law 22, 23 and 24 of the Chapter.”



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WEB COPY11. As per the impugned amendment, Professors in a department shall be the Head of the Department on rotation, based on the performance and merit of the Professors of concerned department. The objectives which can be culled out from the amendment is to provide opportunity to all meritorious professors in a department in the University to hold the post of the Head of the Department, to avoid stagnation amongst the senior professors and to provide equal opportunity to hold the post of Head of the Department on rotational basis. Further objective would be that each professor may have his/her own vision and ideas for the improvement and development of his department. Multiple ideas from individual professors would be of greater assistance for the improvement of a department in a University.

12. Head of the Department is a designation and not a promotion. The Statute 25 contemplates that all other professors, readers and lecturers, if any shall work under the direction of the professor and the Head of the Department concerned with the subject, and shall assist him in the performance of his duties as defined.

13. Therefore, the Statute in unequivocal terms emphasis that all other

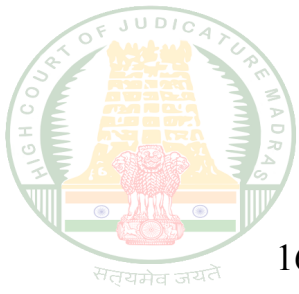


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professors, readers and lecturers shall work under the directions of the professor and Head of the Department. Therefore, one amongst the senior professors is designated as a Head of the Department, to supervise the department and to guide professors, lecturers and staff members in his department.

14. Headship is provided to represent, regulate and to monitor the activities in the department. It is not a promotion admittedly. Even promotion *per se* cannot be claimed as a matter of right by the teaching or non-teaching staff. Consideration for promotion alone is a right.

15. In the present case, the post of the Head of Department is given by way of designation only to supervise the particular department in a University. Admittedly, there is no alteration of service conditions nor any higher scale of pay has been fixed for the post of Head of the Department. In the absence of any alteration in the service conditions for the post of Head of the Department, the post cannot be claimed as an absolute right by the professors. None of the service conditions of the professors are infringed in pursuance to the amendment effected to the Statute 25, Chapter IX, Volume 1.



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16. Since the responsibility of the Head of the Department is to guide professors and students, merit assessment is of paramount importance. When service conditions for the post of professors are not altered and designation of Head of the Department has been conferred on merits and on rotation basis to avoid stagnation and discrimination amongst the senior professors, this Court do not find any infirmity in respect of the amendment brought-in to Statute 25 in Chapter IX, Volume 1, University Calender 2016 stating that the professors in a department shall be the Head of the Department on rotation, based on the performance and the merit of the professors of the concerned department.

17. Regarding the procedures, Section 30(1) of the Act, reads as under:

“(1) The Senate may of its own motion take into consideration the draft of any Statute; provided, that in any such case before a Statute is passed affecting the powers or duties of any officer or authority, the opinion of the Syndicate and a report from the person or authority concerned shall have been taken into consideration by the Senate.

(2) The Syndicate may propose to the Senate the draft of any Statute. Such draft may be considered



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by the Senate at its next succeeding meeting. The Senate may approve such draft and pass the Statute or may reject it or return it to the Syndicate for reconsideration either in whole or in part, together with any amendments which the Senate may suggest. After any draft so returned has been further considered by the Syndicate, together with any amendments suggested by the Senate, it shall be again presented to the Senate with the report of the Syndicate thereon, and the Senate may then deal with the draft in any manner it thinks fit.

(3) Where any Statute has been passed by the Senate or a draft of a Statute² recommended by the Syndicate has been rejected by the Senate it shall be submitted to the Chancellor who may refer the Statute or draft back to the Senate for further consideration or in the case of a Statute passed by the Senate assent thereto or withhold his assent. A Statute passed by the Senate shall have no validity until it has been assented to by the Chancellor.

(4) The Syndicate shall not purpose the draft of any Statute or of amendment to a Statute-

(a) affecting the status, powers or constitution of any authority of the University until



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such authority has been given an opportunity of expressing an opinion upon the proposal; any opinion so expressed shall be in writing and shall be considered by the Senate and shall be submitted to the Chancellor.”

18. With reference to the above procedures, the common counter affidavit filed on behalf of the Madras University, states that the Syndicate at its meetings held on August 23, 2022 and February 14, 2023 considered the opinion survey report from the Professors (who are currently not Heads of Departments) for rotation of headship and resolved that survey report from the Professors for rotation of headship of the departments of the University, be executed based on the performance, and the merit of the Professors of the concerned department. The resolution passed by the Syndicate on August 23, 2022 and February 14, 2023 were duly approved by the Senate on 25.03.2023 after which the Chancellor of University of Madras has assented to the proposed amended Statute on 09.05.2023 for considering the Headship on rotation basis.

19. The writ petitioner was the member of the Senate, as on the date of the annual meeting of the Senate, held on 25.03.2023. The agenda for the



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annual meeting of the Senate held on 25.03.2023 was circulated on 17.03.2023. The Senate as well as the Syndicate consists of members of Heads of various departments, who were present at the annual meeting of the Senate held on 25.03.2023, approved the amendment to Statute 25 in Chapter IX of the Madras University Act, 1923. Thus, the University has followed the procedures.

20. The rationale behind the impugned amendment is apparent that all the eligible senior most professors in a department in the University shall be provided with an opportunity to serve as Head of the Department. Undoubtedly, such rotational based designation of Head of the Department would not only enhance the efficiency level in a department, but would provide equal opportunity to all senior professors in a Department.

21. As per the pre-amended Statute, once a senior professor was designated as Head of the Department, he will hold the post till his retirement or promoted to higher rank. However, long-term holding of the post of Head of the Department by one professor is certainly not desirable, and will result in denied opportunity to other aspiring senior professors, who all are eligible to be designated as Head of the Department.



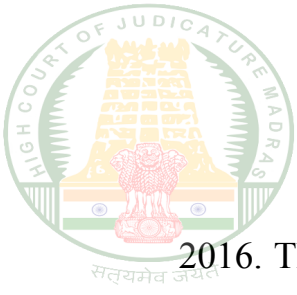
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WEB COPY 22. Therefore, the impugned amendment was brought-in to improve the efficiency level in a department and to ensure equal opportunity to all Senior Professors, who may also possess expertise, ideas, vision, etc.

23. The Statute contemplates not only seniority but also merit. Merit plays pivotal role for holding the post of Head of the Department. Merit assessments, including conduct and antecedents of the senior professors, are also required to be verified, since the Head of the Department is not only teaching, but also acting as guide, mentor and contributor for the development in imparting better education to the students to mould them to be a good citizen.

24. The impugned amendment does not violate any of the provisions of the Madras University Act, but it brings the spirit of equal opportunity amongst all senior professors, who belong to homogeneous clause.

25. In view of the discussions made above, this Court do not find any reason or acceptable ground to interfere with the impugned amendment brought-in into the Statute 25, Chapter IX, Volume 1, University Calender



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2016. Thus, the Writ Petition Stands dismissed. Consequently, the connected

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Miscellaneous Petitions are closed. There shall be no orders as to costs.

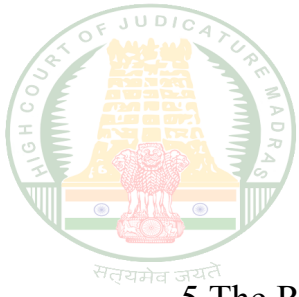
[S.M.S., J.] [K.R.S., J.]
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Index : Yes
Speaking order
Neutral Citation : Yes

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