

Madras High Court

Dr.S.Sandilyan vs The Bharathidasan University on 30 September, 2022

W.P.No

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7724 of 2014

and

M.P.No.1 of 2014

and

W.M.P.No.3475 of 2016

Dr.S.Sandilyan

Vs.

1.The Bharathidasan University,  
Rep.by its Registrar,  
Tiruchirappalli – 620 024.

2.The Secretary,  
A.V.C.College,  
Mannampandal,  
Mayiladuthurai – 609 305.  
Nagapattinam District.

3.Dr.M.Karthikeyan

4.Dr.N.Baskaran

Prayer : Writ Petition filed Under Article 226 of the Constitution  
to issue a Writ of Declaration, to declare the appointment of 3rd a  
respondent as Assistant Professors in 2nd respondent College as bad

1/11

<https://www.mhc.tn.gov.in/judis>

For Petitioner : Mrs.AL.Ganthimathi  
For R1 : Mr.V.Govardhanan  
For M/s.Row and Reddy

For R2 : Mr.B.Harish  
For M/s.K.M.Vijayan Associa

For R3 : Mr.D.Muthukumar  
For R4 : No appearance

ORDER

The Writ of Declaration has been instituted to declare the appointment of the respondents 3 and 4 as Assistant Professors in the Second respondent College as null and void.

2. The petitioner states that the 2nd respondent is an Arts and Science College, founded in the year 1955 and affiliated with the 1st respondent/Bharathidasan University and recognised by the University Grants Commission. Pursuant to the Recruitment notice published on 11.07.2013 for appointment to the post of Assistant Professor for various subjects, the petitioner submitted his application and participated in the process of selection for appointment to the post of Assistant Professor in Zoology subject. The number of posts were mentioned as 04, out of which, 2 were reserved for General and 1 was reserved for SC(A) and 1 was <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 reserved for GT(Women).

3. The learned counsel for the petitioner states that he completed M.Sc., in First Class in the year 1997 and M.Phil., in Zoology in First Class. Further, he acquired Ph.D., degree in 1st respondent / Bharathidasan University, Trichy in 2009. Though the petitioner attended the interview on 11.10.2013, the Committee examined the credentials of the petitioner, not selected him without any valid reason. The petitioner questioned marks awarded for teaching experience and the Ph.D., degree. The petitioner raised grounds regarding irregularities in the process of selection. Importantly, the petitioner has raised a ground that the respondents 3 and 4 are not qualified as per the University Grants Commission Regulations and they did not possess the requisite qualification in the concerned subject. Thus, the appointment of the respondents 3 and 4 are illegal and in violation of the regulations prescribed regarding the educational qualification for appointment to the post of Assistant Professor in Zoology.

4. In this regard, the learned counsel for the petitioner drew the attention of this Court with reference to the Staff profile of the 3rd <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 respondent and 4th respondent, which reads as under: Staff Profile of the 3rd respondent:

S.No. Degree College/University Year of Subjects Grade/ Passing Percentage  
1 PhD Mahatma Gandhi 2008 Wildlife Comanded University, Kottayam, Biology Kerala  
2 PG A.V.C.College 1998 Wildlife I/64.5% Biology  
3 UG A.V.C.College 1996 Zoology II/58.5%  
5 Diploma A.V.C.College 1996 Bio-Resource II/58.0% Technology  
Staff Profile of the 4th respondent:

University Education Post Doctoral Fellow : CES, Indian Institute of Science, Bangalore (2001-02)  
Doctor of Philosophy : Zoology/AVCC, Bharathidasan University/Commended (2000)  
Master of Philosophy : Zoology/AVCC, Bharathidasan University/1st Class/72% (1990)  
Master of Science : Wildlife/AVCC, Bharathidasan University/1st Class/61%(1989)  
Bachelor of Science : Zoology/AVCC, Bharathidasan University/1st Class/59% (1987)

5. Perusal of the Staff profile of the respondents 3 and 4 reveals that the third respondent studied Wildlife Biology and Ph.D., in Wildlife Biology. The 4th respondent studied M.Sc., in Wildlife Biology. <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014

6. The learned counsel for the petitioner reiterated that M.Sc., Zoology is the essential qualification for selection and appointment to the post of Assistant Professor (Zoology) and the Post Graduate degree in Wildlife Zoology is not equivalent to M.Sc., Zoology as per the Government orders. Thus, the respondents 3 and 4, who were unqualified, were appointed as Assistant Professors in violation of the University Grants Commission Regulations, more specifically, with reference to the educational qualifications prescribed for appointment to the post of Assistant Professor.

7. The learned counsel for the 3rd respondent made a submission that the petitioner is also an unqualified person and such an unqualified person as no locus to question the appointment of the respondents 3 and 4. He further made a submission that the petitioner also possessed the Masters degree in Wildlife Biology and therefore, equally he is not qualified and thus, the writ petition is to be rejected.

8. The learned counsel for the 3rd respondent is of an opinion that the University of Madras and other Universities have granted equivalence, <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 stating that M.Sc., Zoology is equivalent to M.Sc., Wildlife Biology and therefore, the case of the 3rd respondent is to be further referred to the Expert body.

9. The learned counsel appearing on behalf of the 1st respondent/Bharathidasan University furnished the copy of the Government order issued in G.O.Ms.No.72, Higher Education (K2) Department dated 30.04.2013, granting equivalence of degrees regarding various educational qualifications possessed by the candidates, who all are participating in the process of selection. The Government order was passed pursuant to the recommendations made by the equivalence committee and more specifically, the equivalence committee held meeting on 08.03.2013 and accordingly, the Government order was passed, holding that M.Sc., Wildlife Biology to M.Sc., Zoology is not equivalent.

10. The learned counsel for the first respondent reiterated that the University letters are not binding on the Government as the Government has independently assessed the equivalence of various qualifications and degrees awarded by the Universities across the country and pursuant to the <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 recommendations of the equivalence committee, the Government order was passed and as per the Government order, M.Sc., Wildlife Biology is not equivalent to M.Sc., Zoology and therefore, the appointments made for the post of Assistant Professor (Zoology) in the present case is in violation of the University Grants Commission Regulations and in violation of the Government order in force.

11. The Government Order in G.O.Ms.No.72, Higher Education (K2) Department dated 30.04.2013 was upheld by this Court as the equivalence of degrees are granted pursuant to the recommendations of the Expert Committee, after assessing the subjects prescribed for various courses. Thus, the Government order issued in this regard became final and as per the Government

order, M.Sc., Wildlife Biology is not equivalent to M.Sc., Zoology.

12. The process of selection was conducted during the year 2013-14, the petitioner approached this Court immediately and filed a writ petition. The delay in deciding the writ petition by the High Court would not affect the case of the petitioner and the merits involved. <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014

13. The learned counsel for the third respondent made a submission that the petitioner is also possessing Masters degree in Wildlife Biology and thus, it is made clear that the petitioner is also not eligible for appointment to the post of Assistant Professor Zoology.

14. The learned counsel for the third respondent made a submission that the third respondent is serving for the past about 8 years. The delay cannot be a ground to validate the illegal appointments. Once, the illegality occurred at the selection process and appointment, it is incurable and such illegality at no circumstances be allowed to continue simply on the ground that the writ petition was pending before the High Court for about 7 years. In other words, the petitioner approached this Court immediately without any delay. Thus, he is entitled for the relief. Mere continuance of an illegal appointment cannot be a ground to ratify the illegality.

15. This being the principles to be followed, this Court is of the considered opinion that the appointment of the respondents 3 and 4 are illegal and in violation of the Government orders issued in G.O.Ms.No.72, <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 Higher Education (K2) Department dated 30.04.2013 as both of them are not possessing requisite educational qualifications as per the notification issued for recruitment to the post of Assistant Professor (Zoology), more specifically, they are not holding the Masters Degree in Zoology subject and they have studied Wildlife Biology, which is held as not equivalent to M.Sc., Zoology and therefore, the writ petition is to be considered. Accordingly, the appointment of the respondents 3 and 4 as Assistant Professor (Zoology) in 2nd respondent College is declared as null and void and the 2nd respondent is directed to relieve the respondents 3 and 4 with immediate effect and conduct a fresh process of selection by following the procedures as contemplated and strictly following the educational qualifications and regulations issued by the University Grants Commission for appointment.

16. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2022 Index : Yes Speaking order:Yes kak <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014 To

1.The Registrar, Bharathidasan University, Tiruchirappalli – 620 024.

2.The Secretary, A.V.C.College, Mannampandal, Mayiladuthurai – 609 305.

Nagapattinam District <https://www.mhc.tn.gov.in/judis> W.P.No.7724 of 2014  
S.M.SUBRAMANIAM, J.

kak W.P.No.7724 of 2014 30.09.2022 <https://www.mhc.tn.gov.in/judis>