

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 05TH DAY OF DECEMBER 2018 / 14TH AGRAHAYANA, 1940

WP(C).No.31703 of 2018

PETITIONER:

DR.PRASAD PANNIAN
AGED 44 YEARS
S/O.JAYARAJAN P., ASSOCIATE PROFESSOR,
DEPARTMENT OF ENGLISH & COMPARATIVE LITERATURE,
CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS,
PERIYE P.O., KASARAGOD - 671 316, RESIDING AT
MANJUNATHA GARDEN, INDIRA NAGAR HOUSING COLONY,
POST CHANGALA, KASARAGOD - 671 541.

BY ADVS.
SRI.ELVIN PETER P.J.
SRI.K.R.GANESH

RESPONDENTS:

- 1 THE CENTRAL UNIVERSITY OF KERALA -
REPRESENTED BY ITS REGISTRAR, TEJASWINI HILLS,
PERIYE (P.O.), KASARAGOD - 671 316.
- 2 THE VICE CHANCELLOR,
CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS,
PERIYE (P.O.), KASARAGOD-671 316.
- 3 THE REGISTRAR,
CENTRAL UNIVERSITY OF KERALA, THEJASWINI HILLS,
PERIYE (P.O.), KASARAGOD-671 316.
- 4 DR.K.JAYAPRASAD,
PRO-VIE CHANCELLOR, CENTRAL UNIVERSITY OF KERALA,
THEJASWINI HILLS, PERIYE (P.O.), KASARAGOD -671 316.
- 5 DR.VELLIKKEEL RAGHAVAN,
ASSISTANT PROFESSOR, DEPARTMENT OF ENGLISH &
COMPARATIVE LITERATURE, CENTRAL UNIVERSITY OF KERALA,
THEJASWINI HILLS, PERIYE (P.O.), KASARAGOD-671 316.

BY SRI.V.SAJITH KUMAR, SC, CENTRAL UNIVERSITY OF
KERALA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.12.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioner was appointed as Head of the Department of English and Comparative Literature in the Central University of Kerala from 01.08.2017 to 12.07.2019. He has been suspended with effect from 07.09.2018. Ext.P12 is the suspension order. It is stated in the suspension order that the petitioner has criticized the decisions of the University and published his comments in social media in regard to legal action taken by the University against one Ganthoti Nagaraju, a Ph.D student of the University. Ext.P11 is the social media post of the petitioner. As seen from Ext.P11, the petitioner had sympathised with the student who was arrested by Police. The petitioner was of the view that the matter should have been settled in the campus itself and it should not have been resulted in criminalization of such student.

2. Learned Standing Counsel appearing for the University attempted to justify the suspension order with various other events. It is pointed out that the petitioner's attitude with the colleagues is not cordial and there are several complaints against the petitioner. It is also submitted that the University had taken only a lighter action against the petitioner by divesting him from the role of Head of the Department. It is

further submitted that the appointment of the Head of the Department is a prerogative appointment made by the Vice Chancellor of the University and the petitioner cannot, as a matter of right, claim that he should be permitted to continue as Head of the Department.

3. Ordinance No.4 gives power to the Vice Chancellor to make appointment as Head of Department amongst Professors in such department for a period of three years. It is also stated that a person who was appointed as Head of Department is eligible for reappointment. As seen from the Ordinance, the Vice Chancellor is having power to choose the Head of the Department.

4. It may be true that the Vice Chancellor is having power to appoint a Professor as Head of Department. However, when an action resulted in suspension of Head of the Department, the court has to look that action not from the power that is traceable for appointing such Head of the Department but for considering whether such action would have visited with any civil consequence of a person who is aggrieved by such action. When a person is suspended from discharging his duties as Head of Department, I would say, it would be a stigma on his career and reputation. Since the suspension was based on a cause, that cause need to be examined.

5. Posting in a Face Book or social media has become a matter of concern for public authorities. It is a matter of formulation of opinion of others. As pointed out by this Court in several judgments, in the absence of any social media guidelines, such post has to be viewed to find out whether it would be detrimental to the collective interest of the University. The expression of opinion of a teacher in regard to an action cannot be considered as a criticism. On a glance of the Face Book posting, it can be seen that the petitioner was sympathising a student who has to undergo such pain and trauma of criminalisation of his act. What would constitute a misconduct would depend upon the nature of criticism or comment. One cannot be prevented from expressing his views merely because he is an employee. In a democratic society, every institution is governed by democratic norms. Healthy criticism is a better way to govern a public institution.

6. Therefore, I am of the view that the posting can be treated only as a healthy criticism and not as detrimental to the collective interest of the University. As I already adverted, suspension would visit with civil consequence and it would affect the career and reputation of a person. It cannot be taken as lightly.

7. Learned Standing Counsel appearing for the University pointed out to the conduct of the petitioner. Since this is not a matter which had gained the attention of primary authority, it is not for this court to comment upon those action. The University is always having liberty to proceed in accordance with law if any of the conduct of the petitioner is not befitting to the conduct of an employee of the University.

I am of the view that the petitioner shall be reinstated as Head of the Department forthwith. This Court has not interfered with the disciplinary action. It is for the University to conclude the matter after adverting to all the attendant circumstances.

This writ petition is allowed.

sd/-

A.MUHAMED MUSTAQUE

JUDGE

smp

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE ORDER NO. CUK/ACA/246/14/D3541 DATED 26/9/2017 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P1(a) TRUE COPY OF THE ORDER NO. CUK/ET/PF-18/PP/2011/A.4093 DATED 4/3/2015 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P2 TRUE COPY OF THE LETTER NO.CUK/ADM(EST)/PG & C/UNIVERSITY/16 DATED 26/10/2016 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXHIBIT P3 TRUE COPY OF THE LETTER NO. CUK/CVO/12/16/189 DATED 16/2/2017 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE LETTER NO.CUK/CVO/CVC/20/2017/208 DATED 10/3/2017 ISSUED BY THE PETITIONER TO THE CENTRAL VIGILANCE COMMISSIONER, NEW DELHI.
- EXHIBIT P5 TRUE COPY OF THE ORDER NO.CUK/EST/CVO/2015 DATED 20/3/2017 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE LETTER NO.CUK/PRA/CVC/01/2017/01 DATED 19/6/2017 ISSUED BY THE PETITIONER TO THE CENTRAL VIGILANCE COMMISSIONER, NEW DELHI.
- EXHIBIT P7 TRUE COPY OF THE MESSAGE POSTED BY THE 5TH RESPONDENT IN HIS WHATSAPP AGAINST THE PETITIONER.
- EXHIBIT P7(a) TRUE COPY OF THE MESSAGE POSTED BY THE 5TH RESPONDENT IN HIS WHATSAPP AGAINST THE PETITIONER.
- EXHIBIT P7(b) TRUE COPY OF THE MESSAGE POSTED BY THE 5TH RESPONDENT IN HIS WHATSAPP AGAINST THE PETITIONER.
- EXHIBIT P7(c) TRUE COPY OF THE MESSAGE POSTED BY THE 5TH RESPONDENT IN HIS WHATSAPP AGAINST THE

PETITIONER.

- EXHIBIT P8 TRUE COPY OF THE COMPLAINT DATED 26/10/2017 FILED BY SMT.JASIYA AGAINST THE 5TH RESPONDENT BEFORE THE 2ND RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE SHOW CAUSE NOTICE NO. CUK/ADMN/CL/15 DATED 3/8/2018 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.
- EXHIBIT P10 TRUE COPY OF THE PRINT OUT OF THE MESSAGE POSTED BY SRI.ALFRED CHARLY IN HIS FACE BOOK.
- EXHIBIT P11 TRUE COPY OF THE PRINT OUT OF THE MESSAGE POSTED BY THE PETITIONER IN HIS FACE BOOK ON 11/8/2018
- EXHIBIT P12 TRUE COPY OF THE ORDER NO.CUK/PVCO/05/2018/E2483 DATED 7/9/2018 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P13 TRUE COPY OF THE PRINT OUT OF THE WHATSAPP SCREEN SHOT IN WHICH THE 4TH RESPONDENT PUBLISHED EXT.P-12 SUSPENSION ORDER OF THE PETITIONER
- EXHIBIT P14 TRUE COPY OF THE ORDER NO.CUK/ADMN/CIRCULAR-2015 DATED 13/3/2017 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P15 TRUE COPY OF THE SHOW CAUSE MEMO NO.PVCO/05/18 DATED 17/9/2018 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.
- EXHIBIT P16 TRUE COPY OF THE APPLICATION NO.CUK/FAC/ECL/2018/1655 DATED 18/9/2018 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P17 TRUE COPY OF THE NEW ITEM PUBLISHED IN THE INDIAN EXPRESS DAILY DATED 12/9/2018.
- EXHIBIT P18 TRUE COPY OF THE NEWS ITEM PUBLISHED IN THE INDIAN EXPRESS DAILY DATED 9/8/2018.
- EXHIBIT P19 TRUE COPY OF THE AFFIDAVIT FILED BY THE UNIVERSITY FOR WITHDRAWING THE WRIT APPEAL

NO.85/2014.

- EXHIBIT P20** TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO PROF. (DR.) N. AJITHKUMAR.
- EXHIBIT P21** TRUE COPY OF THE NEWS ITEM THAT APPEARED IN THE INDIAN EXPRESS DAILY DATED 11/08/2018.
- EXHIBIT P22** TRUE COPY OF THE NEWS ITEM THAT APPEARED IN THE TIMES OF INDIA DAILY DATED 12/08/2018.
- EXHIBIT P23** TRUE COPY OF THE PRESS NOTE DATED 04/10/2018 APPEARED IN THE INDIAN EXPRESS DAILY.
- EXHIBIT P24** TRUE COPY OF THE ORDER DATED 17/09/2017 ISSUED BY THE UNIVERSITY CONSTITUTING THE COMMITTEE.

RESPONDENT'S/S EXHIBITS:

- EXHIBIT R1 (a)** A TRUE COPY OF THE LETTER NO.D/20596/2016 DATED 21/05/2016 ISSUED BY THE DISTRICT COLLECTOR.
- EXHIBIT R1 (b)** A TRUE COPY OF THE PETITION DATED 16/02/2017 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT R1 (c)** A TRUE COPY OF THE REPORT DATED 21/02/2017 BY THE VICE-CHANCELLOR.
- EXHIBIT R1 (d)** A TRUE COPY OF THE REPORT DATED 20/04/2017 BY DR. AJITHKUMAR.
- EXHIBIT R1 (e)** A TRUE COPY OF THE LETTER NO.F-8-1/2015(VIG.) DATED 07/09/2015 ISSUED BY THE MHRD.
- EXHIBIT R1 (f)** A TRUE COPY OF THE LETTER NO. C-34014/2/2017-VIG. DATED 16/03/2017 BY THE MHRD.
- EXHIBIT R1 (g)** A TRUE COPY OF THE REPLY DATED 27/09/2018 SUBMITTED BY THE PETITIONER.
- EXHIBIT R1 (h)** A TRUE COPY OF THE REPORT DATED 12/09/2018 GIVEN BY THE SECURITY OFFICER OF THE UNIVERSITY.
- EXHIBIT R1 (i)** A TRUE COPY OF THE COMPLAINT DATED 08/02/2017 GIVEN BY MR. BIJU, SECTION OFFICER (FINANCE).
- EXHIBIT R1 (j)** A TRUE COPY OF THE COMPLAINT 4/11/2017 GIVEN BY MR. K.V.JAYAN, SENIOR ASSISTANT (FINANCE SECTION).
- EXHIBIT R1 (k)** A TRUE COPY OF THE COMPLAINT DATED 20/12/2017 SUBMITTED BY SMT. DHANYA JITHESH TO THE DEAN SCHOOL OF

W.P.(C) No.31703/2018

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LANGUAGES AND COMPARATIVE LITERATURE.

EXHIBIT R1 (1)

A TRUE COPY OF THE COMPLAINT DATED 28/10/2018 SUBMITTED BY THE ASSISTANT REGISTRAR (ACAD) TO THE VICE-CHANCELLOR.

EXHIBIT R1 (m)

A TRUE COPY OF THE RELEVANT PAGES OF MINUTES DATED 04/09/2018 OF THE EXECUTIVE COUNCIL, CENTRAL UNIVERSITY OF KERALA.

True Copy

P.S to Judge

smp