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ADDITIONAL CHIEF SECRETARY TO GOVERNOR

No.GS3-219/2024

May 21, 2024

Dr.P.Raveendran,
Professor,
Department of Chemistry,
University of Calicut,
Malappuram-673 635..

Sir,

Sub:- University of Calicut – Syndicate election – Petition against the rejection
of candidature during the scrutiny – Proceedings of the Chancellor–
Forwarding of – Reg.

I am directed to forward herewith a copy of the Proceedings of even number
dated 18.05.2024, on the subject, for information and necessary action.

Yours faithfully,

R K Madhu
Deputy Secretary
for Additional Chief Secretary to Governor

KERALA RAJ BHAVAN

Proceedings of the Chancellor,

University of Calicut

Present: Shri.Arif Mohammed Khan

(File No.GS3-219/2024)

ORDER

Dr.P.Raveendran, Professor, Department of Chemistry and Dr.Vasudevan T.M., Professor, Department of Library and Information Science, University of Calicut were nominated to the Senate of the University of Calicut under Section 17 of the Calicut University Act, 1975 by the Chancellor. Dr.Vasudevan was nominated under the category 'Head of the Department' and Dr.Raveendran under the category 'Other Members', Section 17 of the Calicut University Act, 1975. They approached the Chancellor with a grievance that their nomination papers submitted for the election to the Syndicate of the University were rejected by the Returning Officer, which was a violation of the Act and Statutes.

2. On receipt of the complaint, the Chancellor being prima facie satisfied of the necessity to look into the matter, stayed the election process. The interference by the Chancellor was challenged by Dr.Mohamed Haneefa K. before the Hon'ble High Court of Kerala in W.P(C)No.6169/2024. The Hon'ble High Court vide judgment dated 05.03.2024 in W.P(C)No.6169/2024 directed the Chancellor to afford a hearing to all the parties concerned and pass appropriate orders within a period of three (03) weeks. Consequently, a Writ Appeal No.396 of 2024 was filed by Dr.Mohamed Haneefa K., challenging the order dated 05.03.2024 in W.P(C)No.6169/2024 wherein the Hon'ble Court vide judgment dated 19.03.2024 directed that the Chancellor shall decide the appeal in accordance with law, leaving open all the questions regarding the maintainability to the parties to agitate in the pending appeal.

3. The parties were given an opportunity for hearing on 20.03.2024. The Returning Officer appeared through the Standing Counsel of the University of Calicut, Adv.A.L.Navaneeth Krishnan represented the appellants and Adv.Venganoor G.Siva Sankar represented Dr.Mohamed Hancefa K.

4. The Counsels representing the University and the petitioner in W.P(C) No.6169/2024 contended that, once the election process has been set in motion, the only remedy available for the candidate even in the case of the rejection of his nomination paper is to file an election petition as contemplated under Chapter 5 of the Calicut University First Statutes, 1975. On the contrary the petitioners contended that in the case of rejection of nomination on the ground of ineligibility to contest, Statute 5 of the First Statutes makes it mandatory for the Vice Chancellor to refer the matter to the Chancellor for adjudication. The matter of contention is that the Returning Officer, who is the Registrar of the University, rejected their nomination holding that they are not eligible to contest under the category of University Teachers. While doing so the Returning Officer overstepped his authority conferred under Statute 37 of the First Statutes. They raised a further contention that, though they approached the Vice Chancellor with their grievance, he refused to interfere.

5. In the light of the above contentions the primary issue to be decided is whether the petitioners are entitled to seek the intervention of the Chancellor in the matter of rejection of their nomination papers by the Returning Officer without directing them to wait for the completion of the election process and to file an election petition.

6. In this context, it is also necessary to look into the powers conferred on the Returning Officer to reject a nomination paper. This power is dealt within Statute 37 which reads:

“37. Decisions of the Returning Officer on objections: The Returning Officer shall then examine the nomination papers and decide all objections which may be made at the time to any nomination and may, either on such objection, or on his own motion, after such summary enquiry, if any, as he thinks necessary, reject any nomination, on any of the following grounds:-

(a) that the candidate is ineligible for election under sub-section (1) of section 33 of the Ordinance, subject to the exceptions mentioned therein;

(b) that the seconder is a person whose name is not registered in the electoral roll;

(c) that the signature of the candidate or seconder is not genuine or has been obtained by fraud.

The decision of the Returning Officer shall, in each case, be endorsed by him on the nomination paper in respect of which such decision is given”.

7. A perusal of the provision shows that, the Returning Officer, on objections raised by anybody or on his own motion and after such summary enquiry, if any, as he thinks fit reject the nomination paper on three grounds alone, which are detailed in the provision. The three grounds mentioned in Statute 37 do not cover the question of ineligibility to contest in category.

8. At this stage, Statute 5 of the First Statutes assumes relevance which stipulates:

“5. Decisions of the Vice-Chancellor: (1) Unless otherwise specifically provided, the decision of the Vice-Chancellor on any question relating to election shall be final.

(2) If any question arises as to whether any person has been duly elected as or is entitled to be a member of any authority or body of the University, the Vice Chancellor shall refer it to the Chancellor, whose decision thereon shall be final.”

9. Thus, Statute 5 of the First Statutes contemplates a situation, where the question of entitlement of a person to become a member of any authority or body of the University is an issue. In such a situation the Statute stipulates that the issue be placed before the Chancellor for a decision. It is also pertinent to note that in such a situation the aggrieved need not have to wait till the election process is over. The intention of the provision is that the dispute on the entitlement needs to be adjudicated before proceeding further with the election process.

10. The above intention is clear from the following facts as well. It is an admitted fact that the election to the Syndicate is made on the basis of preferential votes. Statute 52 says about the way in which the votes are to be recorded. Statutes 55 and 56 says about the division of valid ballots into parcel according to the first preference and how the quota being fixed. A perusal of the provisions show that the fixing of quota for election, depends on the number of candidates and division of first preference votes. So the number of candidates in the election has a direct impact on the whole election. In such a situation if the election is conducted leaving the question of entitlement of a person to contest in the election open, any adjudication in favor of the said person would not only affect the election of a single member but would render the whole election process invalid. It is to be understood that Statute 5 was provided to avoid such a situation. The election process in the present case is distinct and different from that under the provisions of the Representation of the People Act and hence the general proposition of law laid down in the cases covered by the said act cannot be applied in the present scenario.

11. The Statutes 38 to 40 of the First Statutes also deal with the publication of the list of candidates validly nominated. The persons whose nominations are valid and accepted alone are to be deemed as candidates in the election. The word Candidate is also defined in the Statute as a person qualified to seek election, who has been duly nominated in accordance with these Statutes. In the light of the above definition an

election petition could be filed only by a candidate at such election in terms of Statute 90 (1).

12. In light of the above statutory provisions, it is evident that the intention of Statute 5 is to get any dispute regarding the entitlement of a person to contest an election be adjudicated before proceeding further with the election process. The nature of the election process, the cascading effect that a decision on the candidature of a person could have on the whole election process, the limitation imposed on the authority of the Returning Officer through Statute 37, and the specific provision contemplated under Statute 5 favors the finding that a person's entitlement to contest election under category needs to be decided in terms of Statute 5 of the First Statutes and the contemplation of the election petition cannot be raised as a ground to defeat the said right.

13. Now the question to be considered is whether the cases advanced by the petitioners fall within the scope of Statute 5 of the First Statutes. The Standing Counsel representing the Returning Officer produced the rejected nomination papers of the petitioners. The nomination papers submitted by the petitioners were for election to the category of University Teachers and both are shown as university teachers in the nomination papers. The endorsement on both the nomination paper reads:

"Reason for Rejection: Candidates elected as per item No 4 under elected member vide Sec 17 of Calicut University Act 1975 is only eligible to contest election to Syndicate for the seat reserved for University teachers?"

14. Thus it is evident that the Returning Officer rejected both the nomination papers for a reason which relates to the ineligibility of the petitioners to contest to the category of University Teachers. It is pertinent to note that the status of the petitioners as University Teachers is not disputed. But the rejection is basically based on an issue relating to their eligibility to contest in a particular category.

15. In the light of the endorsement made on the nomination papers the Returning Officer refused to accept the nomination on the ground that the petitioners who are nominated under a different category to the senate cannot contest the election to the category of university teachers. So, while rejecting the nomination papers of the petitioners the Returning Officer decided upon their entitlement to become a member of an authority of the University. The Returning Officer in this process overstepped his authority and bypassed the statutory provisions.

16. In terms of Statute 5 of the First Statutes, the Vice Chancellor, who is the person responsible to conduct the election should have acted in terms of the statutory prescription and placed the matter for a decision before the Chancellor. The petitioners have a specific case that they approached the Vice Chancellor with a petition and he refused to interfere. In such circumstances, the contention of the petitioners that the interference of the Chancellor of the University under Statute 5 is necessary is justifiable.

17. The Counsel representing the Returning Officer argued on the basis of Sections 17 and 21 of the Calicut University Act, 1975 which provide for the constitution of the Senate and the Syndicate. It was also contended that Dr P Raveendran was nominated to the Senate as a representative of the 'Recognized Research Institutions' and Dr Vasudevan was nominated under the category of 'Heads of Department'. The crux of the argument of the Counsel was that only a person who became a member of the Senate in his capacity as a University Teacher is entitled to contest an election to the Syndicate as against a vacancy earmarked for University Teachers. On the otherhand, the argument of the petitioners is that there is no restriction imposed in the Act as contended by the Returning Officer and that there is only one electoral roll prepared for the election to the Syndicate which includes all the members of the Senate. Any person included in the said electoral roll could contest the election to the category to which he is eligible. It is also pointed out that any argument

contrary to the same would lead to a situation where the nominees of the Chancellor under the category of 'Heads of Department' and from 'Recognized Research Institutions' would be prevented from becoming members of the Syndicate.

18. It is necessary to consider the constitution of the Syndicate in terms of Section 21 of the University Act to come to a conclusion on the contention raised. On an analysis of the said provision, it is to be noted that the words used in the provision stresses on an election from among the members of the Senate. The provision does not specify that the members to be elected to the Syndicate under the category of University Teachers should have come to the Senate under the said category. There is no case for any of the parties that the electoral rolls to the election to the Syndicate is made on the basis of the categories. There is only one electoral roll and the members in the roll are entitled to vote. Statute 13 Chapter 1 of the Calicut University First Statutes, 1975 deals with the publication of electoral rolls and Statute 14 says that persons included in the electoral roll are entitled to take part in the elections. In the present case the admitted position is that all the members of the Senate are included in the electoral roll to the Syndicate and that there is no category wise separation provided.

19. The Counsel representing the appellants pointed out that in 2013 Dr.Vasudevan T.M. was nominated to the Senate under the category 'Head of the Department' and he contested the election to the Syndicate as a University Teacher. His nomination was accepted without any objection but he did not succeed. In order to prove the contention, the petitioners relied on the information obtained by them under the Right to Information Act. The documents show that Dr.Vasudevan, who was an Associate Professor and Head of the Department of Library and Information Science was nominated to the Senate and his name is included in the list of Candidates to the election to the Syndicate in the year 2013.

20. In such circumstances, going by Section 21 of the Calicut University Act, 1975, the different provisions contained in the Statutes governing the election to the Syndicate as well as the documents produced by the petitioners showing that one of the petitioner was earlier permitted to contest the election in identical situation, it is only to be held that the nomination papers filed by the appellants to contest the election to the Syndicate under the category of University Teachers need to be accepted. It is so held and the Returning Officer is directed to accept the nomination papers submitted by the appellants Dr.P.Raveendran and Dr.Vasudevan T.M. for the election to the Syndicate of the University of Calicut and proceed with the election process without any delay. The interim stay order stands vacated with immediate effect.

21. The orders of the Hon'ble High Court are hence complied with.

Dated this, the 18th day of May, 2024.



The Chancellor
University of Calicut

