

E? & P H (194 7) Department.

SERIES.

G.O. NO. Ms.2735 Edh

Dated 23rd December 1947.

[Despatch Abstract.]

University - Madras -Academic Council - Election by the
Members of the teaching staff of the Municipal College,
Salem - Ojbections to - Papers Recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.



UNIVERSITY OF MADRAS.

2

UNIVERSITY BUILDINGS
TRIPPLICANE
MADRAS

6th November 1947.

SIR A. L. MUDALIAR.
M.D., LL.D., D.Sc., F.R.C.O.G., F.A.C.S.,
VICE-CHANCELLOR.

The Private Secretary to His Excellency the Chancellor,
Government House,
Guindy.

Sir,

A 6013

7-NOV 1947

I have the honour to bring to the notice of the Chancellor an objection that has been raised in regard to the election to the Academic Council of two members by the members of the teaching staff of the Municipal College, Salem. Certain irregularities seem to have occurred in regard to this election, which will be detailed in the course of this letter. These irregularities are such that they invalidate the election held, and it may have to be set aside and a fresh election ordered. Objection was raised on the ground of certain irregularities and other irregularities were also noticed, which seem to vitiate the election. I am therefore referring this objection under Section 2 of Chapter XIX of the Laws of the University which reads as follows:

"If any question arises 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."

2. Five of the members of the teaching staff of the College addressed the Registrar and informed him in their letter dated the 5th September 1947 that the Returning Officer refused to issue fresh ballot papers to two of the voters in lieu of the one inadvertently spoilt by them. These two candidates are signatories to the letter referred to above. This in itself is in contravention of the provisions of Law 22 of Chapter XIX, wherein it is stated that "an elector who has lost his voting papers or whose papers before their despatch back to the Registrar have been inadvertently spoilt, may transmit a declaration to that effect signed by himself and require the Registrar to send him new papers in place of those not received, lost or spoilt." Once a voter sends a declaration duly signed by him to that effect, there does not seem to be any option to the Returning Officer to withhold sending fresh ballot papers.

3. More serious irregularities would appear to have been committed during this election. I enclose a copy of the letter of the permanent Principal, Mr.A.Ramaswami Gounder, who was on medical leave for two months and in whose absence this election took place. When the Principal of the Salem College was requested to hold an election to fill two vacancies on the Academic Council which had arisen, Mr.A.Subramanyam, M.Sc., the Senior Lecturer who was discharging the duties of the Principal, consequent on the latter having been on medical leave, enquired of the Registrar whether he could stand for election to the vacancy. He was informed in this office letter No.A.3333 dated the 30th July 1947 that as he had designated himself as acting Principal, he was ex-officio member of this body and could not therefore contest the election to the vacancy, which would be filled within the two month's during which period he was supposed to be acting Principal. Instead of accepting this position

he nominated another member of the staff to act as Returning Officer for one day, i.e., on the day of the polling and had the election conducted. Two serious irregularities have thus been committed:--

- (i) While Mr.A.Subrahmanyam was discharging the duties of the Principal and functioning as a Returning Officer, ~~hexxxxxx~~ could not contest the election. He allowed himself to be nominated as a candidate and contested the election.
- (ii) Under Statute 9 (a) of Chapter XIX, it is clearly laid down that only certain persons can be Returning Officers for purposes of these elections, and so far as Colleges are concerned, it is only the Principal of the College that should be the Returning Officer, whether he is permanent or officiating. In case a Principal was not in a position to act as Returning Officer, the matter should be reported to the Vice-Chancellor, who was the only person authorised under the Laws to assume the powers of Returning Officer in an emergency. The delegation of powers of Returning Officer to another member of the staff is therefore ultra vires. On all these grounds, it appears to me that the election should be set aside and a fresh election ordered.

I am requesting you to obtain the orders of the Chancellor and to communicate it to me at an early date.

I have the honour to be,
Sir,
Your most obedient servant,

Asud Sahai
VICE-CHANCELLOR.

ks/6/11/

Encls. 2.

Copy of an objection petition regarding the election to the Academic Council by the teaching staff of the College, dated 5.9.47

We the undersigned members of the Salem College staff beg to place before you the following facts for your kind consideration and favourable orders.

To-day (4 P.M.) was the last day for depositing the ballot papers in connection with the election of two members to the Academic Council by the Salem College staff. On 4.9.47 at about 11 A.M. Mr. Thangaraj, one of the candidates to the election, applied to the Election officer for a fresh ballot paper in lieu of the one inadvertently spoilt by him. The Returning Officer in his letter dated 5.9.47 which was received by Mr. Thangaraj at about 10-30 A.M. this day, refused to issue a fresh ballot paper as he was not satisfied. An hour later, Mr. C.D. Samuel was also refused a fresh ballot paper under similar circumstances. Immediately the following express telegram was sent to the Registrar, of Madras University by the voters and the candidates.

"Returning Officer taking sides refuses fresh ballot papers for inadvertently spoilt ones. Pray wire postponing Academic Council Elections Salem College."

Voters, Candidates.

We waited anxiously for a reply from the Registrar till 4 P.M. to-day and then 13 members out of 26 resolved not to participate in the election as a protest against the unjust and autocratic attitude of the Returning Officer.

The Returning Officer has been unfairly taking sides in the election. The Principal-in-Charge who is also a candidate for the election has been using his official influence with some of the voters and some votes are learnt to have been obtained by official pressure. Moreover the Permanent Principal who is to join duty on the 17th instant after expiry of two months' medical leave was completely deprived of an opportunity to exercise his franchise by being not included in the electoral roll. In this connection, we submit that none has been so far appointed in his place.

The result of the election was declared at 4-30 P.M. to-day. Messrs. A. Subrahmaniam and V. Achutha Nair were declared fully elected as they got 13 votes each. If the fresh ballot papers had been issued to the two applicants, the remaining 13 votes would have been registered in favour of the two candidates of our group. The result of the election under normal conditions should have been a tie between four candidates each getting 13 votes. The Returning Officer who was only too well aware of this result went out of the way and refused to issue ballot papers with a view to securing the unfair success to the candidates of his group. In this connection, we beg to submit that his votes were registered in favour of the candidates now declared elected. But if the permanent Principal who is entitled to vote at this election had been given an opportunity, the result might have been entirely different from what it is.

The non-participation of exactly 50% of the voters in this election under protest, the deliberate omission of the permanent Principal's name in the voters list, the official pressure and influence that was brought to bear upon some of the voters and the unfair refusal of the Returning Officer to issue fresh ballot papers are the points that have gone against us. We, therefore, pray that, in the circumstances stated above, the election be set aside and a fresh election be ordered at an early date.

Copy of letter dated the 17th October 1947 from the Principal, Salem College, Salem, addressed to the Registrar, University of Madras.

Sub: Academic Council Election- Teaching staff- objection petition- Remarks.

With reference to your No.A.4857, dated the 7th October 1947, I have the honour to submit the following remarks on the objection petition against the recent election to the Academic Council by the teaching staff of this College.

At the time of the election the College staff consisted of 26 teachers besides the Principal who was then on medical leave. No one was appointed to act as Principal but Mr. A.Subrahmaniam was the Lecturer-in-Charge. Mr. A.Subrahmaniam went on styling himself as Acting Principal, and Principal-in-Charge which has been very strongly objected to by the Commissioner of the Municipality.

At the time of the election the College teachers appear to have formed themselves into two contending groups each 13 strong. Those who participated in the election belonged to one group and the rest to the opposing group. The former group set up two candidates and in the later group three candidates of whom one consented to withdraw towards the end in favour of the other two.

The result of this election was therefore bound to be a tie between the four persons each getting 13 votes. It was a foregone conclusion that the final election would be made by drawing lots. It was just at this time that Messrs. Thangaraj and Samuel applied for fresh ballot papers in the place of those in advertently spoilt by them. The Returning Officer received the spoilt ones but refused to issue fresh ballot papers on the ground that he was not satisfied with the inadvertence. Statute 22 of Chapter 19 does not provide any discretionary power to the Returning Officer for refusing fresh ballot papers. When the old genuine ballot papers were returned, the returning officer was bound to issue fresh ones without being swayed or influenced by extraneous considerations. When, why, where and how were the ballot papers spoilt are matters beyond the jurisdiction of the returning Officer. If the spoilt ones are genuine and bear the signature of the returning officer, justice requires that fresh ones should be issued irrespective of the consequences. I feel that the returning officer was wrong in refusing fresh ones and that he thereby changed the result of the election.

Mr. N.Srinivasan was appointed as Returning Officer by Mr. A.Subrahmaniam who was the Lecturer-in-Charge. Whether this appointment is legal or otherwise is another important factor in determining the validity of this election. Mr. A.Subrahmaniam was appointed as Lecturer-in-Charge only and he did not act as Principal during the period of the election under dispute, but continued as a Lecturer. The Principal's place was, therefore, for the time being ~~xxxxxxx~~ temporarily vacant. Statute 16 of Chapter 19 lays down that "persons for the time being acting as Principals and performing the duties of such office shall have all the rights and powers vested in them by the act and by these laws".

The Principal or the person acting as Principal can alone be the returning Officer for this election. The Principal was on Medical leave and no person was appointed to act in his place. Under such an emergency the Vice-Chancellor alone was "competent to assume the powers of the returning officer and function as such either by himself or by deputing any other person.", as laid down in (d) under statute 1 of Chapter 19. But, Mr. A.Subrahmaniam assumed the power of a returning Officer and functioned as such by deputing Mr. N.Srinivasan. This procedure was in my opinion, illegal and arbitrary. I am, therefore, of opinion that the entire election is null and void.

If it is contended that Mr. A.Subrahmaniam should be regarded as an Acting Principal in spite of his designation as Lecturer-in-Charge, I should like to submit that the election is even then invalid in view of the fact that Mr. A.Subrahmaniam was not eligible to stand as a candidate for the election in as much as he was the Acting Principal and ex-officio member of the Academic Council during the period of this election.

The permanent Principal. Mr. A. Ramaswami Gounder, who is also a teacher was not permitted to participate in this election. In the circumstances stated above, whether he is entitled to vote or not is another important matter for the University authorities to decide. If a voter is temporarily absent and if no one is appointed to act in his place, is he entitled to vote or not is a question for which there is no definite answer in the University Act. If I was entitled to vote, the election is invalid for reason of having deprived me of the legitimate rights of a competent voter.

Moreover, there are other technical flaws in the conduct of the election, but I am now unable to offer my remarks on those flaws as the file relating to the election has not been handed-over to me by Mr. N. Srinivasan, in spite of my requests.

On the whole, I am of opinion that this election is a fit case for being set aside.

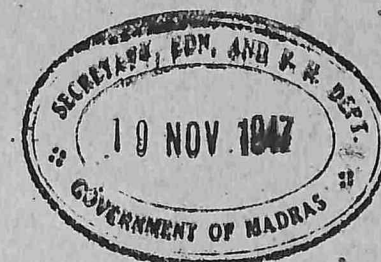
.....

Recd 27/11/47 9
Governor's Sectt 6
U.O. Note No. 2273 A. 47-1 dated 17th November 1947.

Sub: University - Madras - Academic Council - election of 2 members by the teaching staff of the Municipal College, Salem - irregularity.

Ref: Letter from the Vice-Chancellor, Madras University, dated 6-11-1947.

91590
The above letter and enclosures may be sent to the E. & P.H. department in circulation for favour of advice/in consultation with the Legal dept., whether His Excellency can order the election to be set aside and direct the holding of a fresh election, as suggested by the Vice-Chancellor.



Journal
17/11/47
E. & P.H. dept. u.o.



No. 2273A/47-2

MADRAS GOVERNOR'S CAMP

Guindy,
18th December 1947.

From

P. Govindan Nair Esq., ICS.,
Private Secretary to H.E. the
Governor,

To

The Vice-Chancellor,
University of Madras.

Sir,

University - Madras - Academic Council-
Election of 2 members by the teaching
staff of the Municipal College, Salem.
Ref: Your letter No. A.6013, dated
7-11-1947.

Under Section 2 of Chapter XIX of the
Laws of the University, His Excellency the
Chancellor directs that the election of
two members to the Academic Council of the
Madras University by the members of the
teaching staff of the Municipal College,
Salem, already held and referred to in
your letter cited, should be set aside
and a fresh election held.

Your obedient servant,

P. Govindan Nair

Private Secretary to H.E.
the Governor.

Copy to E. & P.H. dept
for file.

⑧ EPH (73)

University - Madras - Academic
Council Election by the members
of the teaching staff of the Municipal
College, Salem - Objections to

CNo. 9180/47. From the V.C., Madras University,
No. A.6013 dt-7-11-47.
From the P.S.G. No. 2273-A/47-1
dt-17-11-47

Please see the letter from the
Vice-Chancellor, University of
Madras, on pp 1 and 3 and its enclosures
on pp 5, 7 & 8 and the rep. from the
Governor's Sectt. on p 9 of. May
~~be sent to legal dept. for remarks~~
before circulation. It appears

all the within the competence of the
25/11/47. ~~Vice~~ Chancellor under sec 2 of
Chap: XIX of the laws of the University of
Madras, extracts at 'A' on p 1 of, to
set aside the election and order a
fresh election. Legal remarks

are The question is whether the irregularities
26/11/47 committed are such as to invalidate the election
held and order a fresh election. The irregularities
mentioned by the Vice Chancellor on page 3 are serious
and they do vitiate the election. In his view a fresh election
has to be ordered. Legal may advise before circulation

26-11-47 S. 1/11/47 Legal

Buc
EPH (73) 13002C
29 NOV 1947
LEGAL DEPARTMENT

Legal Department
The nomination of a member of the staff by Mr.
Subramanyam to act as Returning Officer was clearly in

contravention of Statutes 9 (a) and 16 read with the last proviso of Statute 1 of Chapter XIX of the Laws of the University. The refusal of the Returning Officer to issue fresh ballot papers in lieu of spoilt papers was also irregular. Statute 22 of Chapter XIX does not vest any discretion in the Registrar to supply or to refuse to supply fresh ballot papers. The first irregularity was a serious one and on that ground alone, if not on the second, the election is vitiated and may be set aside.

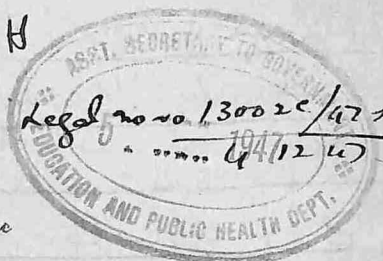
It is unnecessary to consider the third reason mentioned in the Vice-Chancellor's letter, namely, the participation of Mr. Subramanyam in the election as there is nothing in the Act or Statute which prohibits persons doing the duties of Principal from standing for election to Academic Council.

41/2/47

S.

E & P H

91/12/47



Recd. and P.H. Dept.

95904

Bur

6/12/47



9.12.47

Sent to come

P.H. 47

E & P H (G3)

LEO No 9157093/2

22/12/47

10/12/47

LEO No 22734/47-2

10/12/47

E. & P.H.

E & P H (G3)

9

Please see the note from the Governor's Secretariat 2/12/47. The papers may now be

Order/MS 2735 22nd-23-12-47

Recorded

19/12/47

20/12/47

University -
Madras - Academic
Council - Election
by the members
of teaching
staff of the Muni-
cipal College, Salem -
Directors - Papers
Recorded

19/12/47

20/12/47

Please see the note on page 1 and as legal department views above. The case may be circulated H.M. (Secy) through Mr. (Home) & after this record is made the file may be sent to P.S.G. W.O.

1,00,025

5/12/47

As legal point on the election should be aside as relevant statute has been contravened.

6/12/47

TSA

9.12.47

May be sent to P.S.G. W.O.

9/12/47

P.S.G.

Governor's Sectt.

H.E. agrees. A copy of the letter to the V.C. has been added to the file.



Domdam Bain
18/12/47

