

EDUCATION AND PUBLIC HEALTH

(194 7) Department.

SERIES.

G.O. NO. Ms.847 Education.

Dated 26th April 1947.

Closed
an

Order p 4 up

[Despatch Abstract.]

University - Madras - Election of Mrs. Mona Hensman to the Syndicate - Objection petition from Mr. Thiruvengadatha Iyengar - Papers recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Go	1523	Edn	5/8/46				

Further Papers.

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

IRUVENGADATHA IYENGAR, B.A., B.L.,
ADVOCATE.

Any H. 1003
21.11.46

(N)

161, DINDIGUL ROAD,

Madura, 19th Nov 1946.

To, The Private Secretary to H.E. The Governor of Madras.

Madras.

Sir,

PP7-8218

4383
21 NOV 1946

I am herewith sending a petition to H.E. The Chancellor of the University of Madras for the reconsideration of an order passed by H.E. The Chancellor of the University in regard to an election dispute to the Syndicate of the Madras University. At the time the original order was passed a material fact which ought to have been brought to the notice of the Chancellor was not brought to the notice of H.E. The Chancellor although the Univeristy authorities were bound to do so. An important document in the possession of the University authorities was not sent. I have now been able to get at this document and I am producing the said important document. I am also producing the prior order of H.E. The Chancellor communicated to me by the Registrar of the Madras University. The entire correspondence between the University and myself is produced along with the petition. I have also prayed for an enquiry as to why this important document was not brought to the notice of H.E. The Chancellor. I would request you to forward the papers along with the enclosures to H.E. The Chancellor for necessary orders.

Kindly acknowledge receipt of this petition.

Yours Truly,

PP8-25 info

S. Thiruvengadath

Copy to the Pro-Chancellor and the Minister for Education.

PP8 info

S. Thiruvengadathan, B.A., B.L.,

Advocate, 161 Dindigal Road, Madras.

Petitioner.

Mrs Mona Hensman, M.B.E., B.A., M.L.C.

residing at Lismoyle, Harrington Road,

Chetpet, Madras.

Respondent.

Petition put in by the above named petitioner under Statute 2 of Chapter XIX of the laws of the Madras University.

I. The petitioner is an elected member of the Senate of the Madras University. The petitioner was elected from the registered graduates constituency in the elections held in March 1946. The respondent is a nominated member of the Senate for nearly ten years. She continued to be a member of the Senate till 21--5--1946. But before her membership ceased on 22--5--1946 the respondent has again been nominated to the Senate in May 1946 with retrospective effect from 31--3--1946. The notification nominating the respondent retrospectively from 31--3--1946 was published in the Gazette in May 1946.

II. Both the petitioner and the respondent competed in the election for the Syndicate of the Madras University held on May 27th 1946. The respondent has on 7--6--1946 been declared to be duly elected to the said Syndicate. Along with the respondent five other members of the Senate have also been declared duly elected to the Syndicate.

III. The petitioner submits that the election of the respondent to the Syndicate is invalid and that the respondent is in law not entitled to function as a member of the Syndicate. The last day for the receipt of nomination for election to the Syndicate was on 17--5--1946 and the electors were to vote and return the ballot papers to the University between the 27th May 1946 and 4 P.M of 7th June 1946.

IV. The petitioner submits that the respondent was in law not a member of the Senate on 17--5--1946 the date on which the voting papers were despatched to the voters and that the respondent had therefore no right to contest the elections to the Syndicate. The respondent continued to be a member of the Senate till 21..5..1946 and the order nominating the respondent to the Senate retrospectively from 31--3--1946 is invalid. A sitting member can seek election or nomination to the Senate only after

P. Thiruvengadathan

(2)

the original period of membership ceases or at least in anticipation of a vacancy. The nomination to be legally valid ought to take effect from the day on which the member's prior period as a member of the Senate ceases. The respondent was nominated on 31--3--1946 when she already continued to be a member till 21st of May 1946. The petitioner submits that such a nomination of a sitting member is invalid. Since the nomination of the respondent is invalid, the respondent could not legally contest the election to the Syndicate held after 21--5--1946. The respondent ceased to be a member of the Senate on 22--5--1946 and a member of the Senate ^{alone} could stand for election to the Syndicate of the Madras University.

V. Alleging the above facts the petitioner filed a petition on 11--6--1946 praying that ~~xxxxxxx~~ the declaration made on 7-6-46 that the respondent is an elected member of the Syndicate of the Madras University may be set aside and a further declaration made that the respondent is not a member of the Syndicate of the Madras University. The petitioner was informed by the Registrar of the Madras University by his communication A 4312 dated 9--8--1946 that the election petition of the petitioner has been rejected by the Chancellor of the Madras University. The petitioner was further informed that the allegation of the petitioner that the respondent continued to be a member of the Senate till 21--5--1946 was incorrect.

VI. The petitioner is herewith submitting the original notification sent by the University mentioning that the respondent continued to be a member of the Senate till 21--5--1946. When the petitioner filed the original petition the petitioner had mislaid the notification. For the purpose of reconsidering the order dismissing the prior election petition filed by the petitioner, the petitioner repeatedly requested the Vice-chancellor and the Registrar of the Madras University to furnish the petitioner with a copy of the notification enclosed herewith. After giving evasive replies the Registrar finally wrote to the petitioner on 28--9--1946 that the slip submitted along with this petition was issued from the Office of the University and that the same

(3)

(V)

is missing in the office of the University. The entire correspondence between the petitioner and the University is herewith produced.

VII. The petitioner's prior application contesting the election of the respondent to the Syndicate was dismissed on the ground that the respondent ceased to be a member of the Senate on 31--3--1946 and that she was validly nominated again in May 1946 from 31--3--1946. It is now clear that the respondent continued to be a member of the Senate till 21--5--1946. The petitioner therefore submits that the order nominating the respondent retrospectively from 31--3--1946 is invalid and that the respondent ceased to be a member of the Senate on 27--5--1946 when the election to the Syndicate was held. Under these circumstances the petitioner prays that the order upholding the election of the respondent to the Syndicate may be reconsidered and a declaration made that the respondent is not a member either of the Senate or the Syndicate of the Madras University.

VIII. The petitioner now understands that it was not brought to the notice of the Chancellor when the original order was passed that the respondent continued to be a member of the Senate till 21--5--1946 although the University authorities were bound to bring this fact to the notice of the Chancellor at the time the University authorities forwarded the prior election petition to the Chancellor. All efforts of the petitioner to know why this fact was not brought to the notice of the Chancellor proved futile. The petitioner waited till the Senate meeting of 7--11--1946 to get the necessary information through interpellations and supplementary questions. But most of the questions of the petitioner as to why this information was not brought to the notice of the Chancellor were disallowed even without giving an opportunity to the petitioner to remodel the questions as required by Statute 26 of Chapter XI of the laws of the University. And the petitioner was not given an opportunity to put supplementary questions at the meeting held on 7--11--1946 as the Senate passed to the next item in the agenda even while answering some of the questions. The petitioner further prays that an enquiry may be held as to why the fact that the respondent continued to be a member of the Senate till 21--5--1946 was not brought to the notice of the Chancellor by the University authorities when they forwarded the election ~~of the~~ petition of the petitioner in June last.

P. Vinod Kumar

P. Vinod Kumar

(4)

As soon as the necessary orders on this application have been passed the petitioner further prays that the enclosures to this petition may be returned to him.

S. N. de Belle

S. Minopoli

MADURA.
12--11--1946.

PETITIONER.

COPY TO THE PRO-CHANCELLOR AND THE MINISTER FOR EDUCATION.

Enclosures:-

- (1) Additional list of members of the Senate furnished by the Registrar. *P 8 info*
- (2) Letter from the Registrar of the University to the petitioner (9-8-46)
- (3) 14-8-1946. Copy of the letter of the petitioner to the Registrar. *P 9 info*
- (4) 17--8--1946. Letter of the Registrar to the petitioner. *P 10 info*
- (5) 23--8--1946 Copy of the letter of the petitioner to the Registrar. *P 13 info*
- (6) 26--8--1946. Letter of the Registrar to the petitioner. *P 14 info*
- (7) 30--8--1946 Copy of the letter of the petitioner to the Registrar. *P 16 info*
- (8) 7--9--1946. Copy of the letter of the petitioner to the Registrar. *P 15 info*
- (9) 10--9--1946. Letter of the Vice-chancellor to the petitioner. *P 17 info*
- (10) 8--9--1946. Copy of the letter of the petitioner to the Vice-Chancellor. *P 18 info*
- (11) 23--9--1946 Letter of the Vice-Chancellor to the petitioner. *P 19 info*
- (12) 13--9--1946. Copy of the letter of the petitioner to the Registrar. *P 21 info*
- (13) 27--9--1946. Copy of the letter of the petitioner to the Registrar. *P 20 info*
- (14) 28--9--1946 Letter of the Registrar to the petitioner. *P 22 info*
- (15) 4--10--1946 Copy of the letter of the petitioner to the Registrar. *P 23 info*
- (16) 9--10--1946 Letter of the Registrar to the petitioner. *P 25 info*

Petitioner. *P. Van Buren*

S. Chir. & Geller

Governor's Secy.

UNIVERSITY - Madras
objection petition from Mr.S.Thiruvengadatha Iyengar, d/12-11-46.
2--DEC 1946

The petitioner contends that Mrs. M. Hensman was not a member of the Senate on 2-1-1946 when the election to the syndicate was held, that she continued to be a member of the Senate till 21-5-1946 only, that the order renominating her to the Senate retrospectively from 31-3-46 is invalid, and that her election to the Syndicate was, therefore, illegal.

Mrs. Mona Hensman was elected to the Syndicate from the Senate with effect from 21-5-1943. Under Section 18(c) of the Act, elected members of the Syndicate shall hold office for a period of three years. Mrs. Mona Hensman's term as an elected member of the Syndicate from the Senate would ordinarily expire on 20-5-1946. The petitioner states that she continued to be a sitting member of the Senate till 21-5-46, and that therefore her nomination to the Senate retrospectively was invalid. Members of the Senate also include members of the Syndicate who are not otherwise members of the Senate. If Mrs. Mona Hensman had not been renominated to the Senate with effect from 31-3-1946 she would have continued to be a member of the Senate under section 14(a), Class 1-(8), so long as she continued to be a member of the Syndicate, i.e. upto 20-5-1946, and the petitioner's contention that she continued to be a sitting member of the Senate till 21-5-1946 could be accepted. But as she was renominated to the Senate for a further term of 3 years with effect from 31-3-46, and as her renomination was notified on 13-5-1946, i.e. prior to her election to the Syndicate on 27-5-1946, she continued to be a member of the Senate by virtue of her renomination, and not by virtue of her membership of the Syndicate

(P.T.O.)

-2-

The petitioner's argument that Mrs. Mona Hensman's renomination retrospectively with effect from 31-3-46 is invalid does not appear correct, as her membership of the Syndicate would have ceased under section 14(c) of the Act if she had not been renominated to the Senate with effect from 31-3-1946.

The above petition with enclosures may be sent to the E. & P.H. dept. for examination in consultation with the Legal dept. and circulation through the Ministers concerned.

glwono
2-4383/46
28.11.46
E. & P.H. dept. u.o.

No. 2-4383/46

Guindy,
22nd April 1947.

Dear Sir,

University - Madras - election of Mrs. Mona Hensman to the Syndicate.
Ref: Your petition dated 12-11-1946 to His Excellency the Chancellor.

His Excellency the Chancellor has examined your petition. Under Section 14(c) of the Madras University Act, Mrs. Mona Hensman ceased to be a member of the Syndicate on the expiry of her membership of the Senate on 31-3-1946. She was renominated to the Senate and on renomination was validly elected to the Syndicate. In the circumstances, His Excellency declines to reconsider the orders already communicated to you through the Vice-Chancellor. The enclosures to your petition are returned herewith.

Yours faithfully,

1/3
Private Secretary to
H.E. the Governor.

Sri S. Thiruvengadatha Iyengar,
Advocate,
161, Dindigul Road,
Madura.

Copy to the Vice-Chancellor, University of Madras.
Education & Public Health Dept.

① G3

E-4H(G3)

University - Madras - Election of Mrs.
Mona Hendman to the Senate - Objection
Petition from Mr. S. Thiruvengadatha
Syengar -

PP 3-6 of

C.No. 73880/46 - From Mr. Thiruvengadatha Syengar
of 12-11-46

Precedent
Pg 9 of (P. 10)

May be sent to legal dept. for remarks
at the first instance.

ASSISTANT SECRETARY
4 JAN 1947
LEGAL DEPARTMENT.

17/12/46
Cena
19.12.46

hr
21.12.46

hr
28.12.46

LEGAL DEPARTMENT.

E-4H(G3)

C.No. 73880-93/46-154
23/12/46.

P. 1247
handbook

10715
28.12.46 R

It is not clear whether the provision in sec-
tion 14 (a) Class I (8) of Madras University Act
applies to a nominated member of the Senate elected
to the Syndicate and whose term of office as nominated
member of the Senate has expired by efflux of time
and whether this is the practice in vogue. E.& P.H.
may kindly put up any previous papers which may con-
tain discussions on this point and also the papers
leading up to Madras Act XXXIII of 1942 in which sec-
tion 18 (b) was amended. The papers referred to are
not available in the Records.

U/L/11-010715/46-1
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3.2.47

hr
3/2/47 E&P H

E-4H(G3)

GOVERNMENT
6-FEB-1947
10 286
PUBLIC HEALTH DEPARTMENT

VF

The papers relating to the previous
amendments have been called for from
Secy to Govt. This may be over till the receipt

(see 10
19/2/47)

hr
8/2/47

hr
8.2.47

EPH (53)

With reference to R on p. ante, ~~the~~
no papers are traceable. It seems the University will have to be
consulted. This may not serve any purpose as the answer again lies with the
Senate. On p. ante. See papers relating

to the Madras Act XXXIII of 1942 are
at (D).

15.2.47 Legal

V. E. H. has
been removed for
the (Syndicate)

13.2.47
15.2.

Legal Department

EPH (53)

No. 73880-93/46-4 SW
17.2.47
0 1756

The facts appear to be as follows:-

Mrs. Mona Hensman was a nominated member of the Senate
and by efflux of time, the three years period as nominated
member expired on 31-3-1946. She was elected to the
Syndicate from the Senate on 21-5-1943. Ordinarily, her
term as elected member of the Syndicate would expire on
20-5-1946. But she was again nominated as a member of the
Senate for a further period of 3 years with effect from
31-3-1946 and the nomination was notified on 13-5-1946.
Elections to the Syndicate were held subsequently, that is,
on 27-5-1946.

ASSISTANT SECRETARY
8 FEB 1947
LEGAL DEPARTMENT

The petitioner's contention appears to be that the
renomination of Mrs. Hensman with effect from 31-3-1946 was
invalid as she continued to be a sitting member of the Senate
till 21-5-1946. This contention is based on the assumption
that she was a member of the Syndicate after 31-3-1946 and that
under section 14 (a), Class I (8), she was a member of the
Senate also. This assumption does not appear to be well-
founded. So far as members of the Senate, whether elected or
nominated, are concerned, they hold office only for a period
of 3 years under section 14 (b). There is a similar provision
as regards members of the Syndicate in section 18 (b). The
argument apparently is that under the latter, Mrs. Mona Hensman

1-24/10/10-21/11/47
12.3.47

p. 124 of calendar
Vol I, P. I

p. 126 ibid

p. 131 ibid

would have continued to be a member of the Syndicate till 21-5-1946
and that after 31-3-1946 when she ceased to be member of the Senate
she again became a member of the Senate as she then came under
Class I (8) of section 14 (a). This argument ignores section 14 (c)
which provides that "when a person ceases to be a member of the
Senate, he shall cease to be a member of any of the authorities
of the University of which he may happen to be a member by virtue
of his membership of the Senate". The expression "by virtue of
his membership of the Senate" is wide enough to include persons
elected to the Syndicate from the Senate, and according to section
18 (a), Class II (1) which deals with such election, it is only
members of the Senate who could be elected. Further to construe
Class I (8) of section 14 (a) as applicable to cases of this kind,
does not appear to be reasonable. It seems to apply only to such
members of the Syndicate who, from the very beginning, are not
members of the Senate. To say that a person who was elected and
became a member of the Syndicate by reason of his membership of
the Senate could, by reason of such membership of the Syndicate,
continue to be a member of the Senate, appears to be to invert
the usual order of things. The petitioner's contention has
therefore to be rejected. In this view, Mrs. Hensman ceased to
be a member of the Senate after 31-3-1946. At the time of her
renomination, there was a vacancy in the nominated membership and
such vacancy was properly filled up by her renomination which was
notified on 13-5-1946 (see section 38). Whatever doubts may exist
as regards the validity of the nomination in so far as it was
given retrospective effect from 31-3-1946, she was certainly a
member of the Senate from 13-5-1946. Her election to the Syndicate
which took place subsequently is not therefore open to challenge.

Legal No. 01756/47-1
12.3.47.

ASSISTANT SECRETARY TO GOVERNMENT
20833
13 MAR 1947
EDUCATION

11/3/47. EPH

73880-43

17/3/47

69/26/47

E.P.H. (G.S.)

This dept. may agree with the legal Dept note on p. 2 to 3 ante.

(2) the file may be circulated to H.M. (Law), who is also in charge of Edu, and H.E.

VR8
14/3/47

an
15/3/47

hr
16.3.47

by
17/3/47

M. (Law) Home
M. (Law)

This may go first to H.M. (Law) Home

TSA

I agree with the interpretation given by the legal department, and there are no objections in the direction. She was a member of the Legislative Council when being a member of the State.

Her point is quite clear in law. I held her election to the Legislative Council is correct and cannot be disputed.

6/10/47

TSA

10.7.47

Recd
25/4/47

Governor's Sectt.

H.E. agrees. A copy of the reply sent to Mr. Thiruvengadatha Iyengar has been added to the file.

23.4.47
E. & P.H.

E.P.H. (G.S.)

The papers may be

Order/Ms No. 847 dated 26.4.47.

Recorded.

hr
25.4.47

Abstract:-

University - Madras - Election of Mr. Home Handman to the Senate - Objection Petition from Mr. Thiruvengadatha Iyengar - Papers recorded

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25/4/47

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25/4/47