

W.P.(MD) No.16232 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved On : 22.07.2025

Pronounced On : 08.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.16232 of 2016

and

W.M.P. (MD) Nos.11880 & 11881 of 2016

J. Mohammed Khan,
35/252, Circle Office Street,
Sankar Nagar (Post),
Tirunelveli 627 357.

...Petitioner

Vs.

1. Manonmaniam Sundaranar University,
Represented by the Registrar,
Abishekapatti, Tirunelveli 627 012.

2. The Secretary,
Higher Education Department
State of Tamil Nadu
Fort St. George, Chennai - 600 009.

3.S.John De Britto
Registrar,
Manonmaniam Sundaranar University,
Abishekapatti, Tirunelveli 627 012.

... Respondents

PRAYER in W.P.:

To pass an Order or a Direction or a Writ in the nature of Writ of
Certiorarified Mandamus calling for the records in Advertisements



W.P.(MD) No.16232 of 2016

issued by the 1st Respondent dated 22.07.2016, 26.07.2016 and 03.08.2016, quash the same and consequently direct the 1st Respondent to issue the advertisement in conformity with the Reservation Roster as per G.O.Ms. No. 55, Personnel and Administrative Reforms (S), dated 08.04.2010 and pass such further or other order or orders as may be deemed fit and proper in the circumstances of the case and thus render justice.

PRAYER IN W.M.P.(MD) No.11880 of 2016:

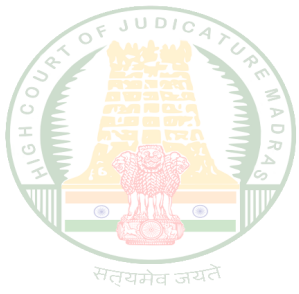
To dispense with the original copy of the Advertisements issued by the 1st Respondent dated 22.07.2016, 26.07.2016 and 03.08.2016 and thus render justice.

PRAYER IN W.M.P.(MD) No.11881 of 2016:

To pass an order of Interim stay of the Advertisements issued by the 1st Respondent dated 22.07.2016, 26.07.2016 and 03.08.2016 pending disposal of the writ petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner	: M/s. V. Rajiv Rufus and A.Venkatesh Kumar, Advocates
For Respondents	: M/s.Ajmal Associates, rep. by Ms.H.Jasmia Yasmin, Advocate for R1
	: Mr.T.Amjad Khan Government Advocate for R2
	: No appearance for R3



W.P.(MD) No.16232 of 2016

J U D G M E N T

WEB COPY Heard.

2. The matter was initially heard by another learned Judge, who, by order dated 17.04.2025, observed that the counter affidavit filed by the first respondent was unsatisfactory and directed the filing of a fresh counter. Pursuant thereto, the first respondent University filed an additional counter affidavit on 20.06.2025. The case was thereafter heard, during which submissions were made by the junior counsel for the petitioner. However, after the matter was reserved for orders, a further request was made for an opportunity to advance additional submissions. This Court, therefore, directed the filing of written submissions, which were duly submitted, and the matter was finally reserved for orders on 22.07.2025.

3. The petitioner's case is that the first respondent University issued advertisements dated 22.07.2016, 26.07.2016 and 03.08.2016 inviting applications for the posts of Professors, Associate Professors, and Assistant Professors, which, according to the petitioner, were issued in serious violation of applicable norms. While the first respondent University subsequently dropped the recruitment process for the posts of

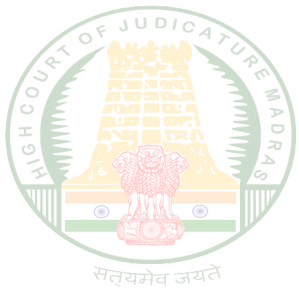


W.P.(MD) No.16232 of 2016

Professors and Associate Professors, it continued with the selection process for Assistant Professors. The petitioner further referred to a letter dated 07.07.2015, wherein the third respondent Registrar had allegedly recommended the appointment of one Jasmine Ida to a temporary post in the concerned department.

4. The petitioner further contended that the first respondent University would not have halted the recruitment process for Professors and Associate Professors but for the flaws identified in the said process. In its counter affidavit dated 11.03.2025, the University, in paragraph 7, furnished a list of teachers appointed as per the roster. According to the petitioner, the roster was manipulated to favour certain candidates.

5. Further, the petitioner pointed out that while appointments of Assistant Professors in the Departments of Chemistry, Physics, and Communication were made pursuant to the notification dated 31.08.2010, the appointment made in the Department of Criminology on 15.05.2007 was from the Backward Classes (BC) turn. Hence, in 2016, the subsequent appointment should have gone to the General Turn. Had the roster been followed correctly, the petitioner claims that she would have been selected.



W.P.(MD) No.16232 of 2016

WEB COPY

6. However, for the 2016 vacancy, the first respondent University invited applications exclusively from candidates belonging to the SC (Arunthathiar) category, allegedly in violation of the roster prescribed under G.O.Ms.No.55 dated 08.04.2010. After filing its counter affidavit and realizing this flaw, the University attempted to clarify that applications had in fact been invited under the General Turn and that there was no violation. The petitioner contended that no such notification was issued for the Department of Criminology under the General Turn. It was further submitted that if this Court were to summon the notification issued in October 2007 by the Criminology Department under the General Turn, the truth of the matter would be revealed. On these grounds, the petitioner sought that the notifications dated 22.07.2016, 26.07.2016, and 03.08.2016 be quashed by this Court.

7. Admittedly, the petitioner is an aspirant for the post of Assistant Professor in the Department of Criminology and has set out his credentials in paragraph 4 of his affidavit, which need not be reproduced here. In the notification dated 22.07.2016, applications were invited for 16 departments, but no post was notified for the Department of Criminology. In the subsequent notification dated 26.07.2016,



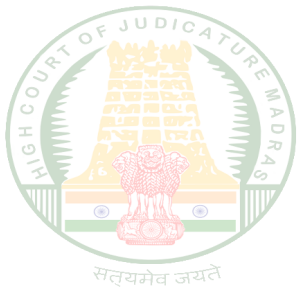
W.P.(MD) No.16232 of 2016

advertisements were issued for five departments, and with respect to the Department of Criminology, the notification stated as follows:-

Advertisement No.	Name of the Department	Name / Number of the Post	Roster
MSU/R/T/18-CRI/2016	Department of Criminology & Criminal Justice	Assistant Professor-2	SC(A)/SC(P), MBC/DNC

In the notification dated 03.08.2016, applications were invited for three other departments, with no vacancy notified for the Department of Criminology.

8. In essence, the petitioner seeks to contend that the 200-point roster was wrongly applied in contravention of G.O.Ms.No.55, Personnel and Administrative Reforms (S) Department, dated 08.04.2010. However, in the present writ petition, the petitioner has challenged three separate notifications dated 22.07.2016, 26.07.2016, and 03.08.2016. As noted earlier, the first notification pertains to 16 departments, the second to 5 departments, and the third to 3 departments. Out of these 24 departments, the post for which the petitioner is an aspirant falls only under the second notification dated 26.07.2016. It is unclear why the petitioner has also challenged the other two notifications, which do not relate to any vacancy in the Department of Criminology.



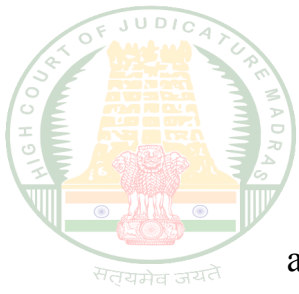
W.P.(MD) No.16232 of 2016

WEB COPY

9. The writ petition was filed on 29.08.2016, and when it was taken up on 30.08.2016, counsel for respondents 1 and 2 entered appearance and took notice. As regards the third respondent, on 28.07.2023, this Court permitted private notice to be served. Thus, the petitioner did not obtain the benefit of any interim order from this Court. Consequently, in respect of the three notifications, as admitted by the petitioner, the selection process would have proceeded, and appointments would have been made in accordance with the decision of the Syndicate of the first respondent University.

10. Pursuant to the directions issued by this Court, the first respondent filed an additional counter affidavit dated 20.06.2025, wherein paragraphs 3 and 4 read as follows:-

“3. I respectfully state that at the outset, I tender my apology to this Hon’ble Court for not bringing the following facts on record when the counter affidavit dated 11.03.2025 has been filed before this Hon’ble Court. This Respondent University has already filed a counter dated 11.03.2025 stating that one Dr.S.Latha was appointed on 03.10.2007 in the roster of GT. She was appointed pursuant to the notification dated 15.05.2007, wherein the roster was mentioned as BC. It is not in dispute that the said Latha is only belonging to the BC Community. However, due to inadvertence, it has been wrongly mentioned in the counter



WEB COPY

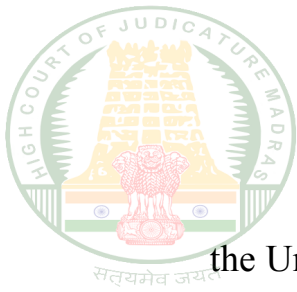


W.P.(MD) No.16232 of 2016

affidavit dated 11.03.2025 that she was appointed under the GT turn.

4. I respectfully state that after the said notification dated 15.05.2007, the University has published another notification dated 30.10.2007 calling for the applications for the post of Reader / Lecturer (Tenure basis for a period of 5 years) in the roster of GT, pursuant to which one Dr.Syed Umarhatab was appointed as Professor in Victimology and Victim Assistance (UGC Innovative Programme). Since the said post is a tenure post for a period of 5 years, the 38th Finance Committee held on 11.03.2014 vide its Minutes dated 11.03.2014 has considered and approved the proposal of transferring one vacant post of Assistant Professor from Hindi Department to the Department of Criminology and Criminal Justice for enabling to absorb said Dr.Syed Umarhatab, Assistant Professor in Criminology and Criminal Justice i.e. on the transferred post with effect from 30.12.2013. Due to inadvertence, the above facts have not been placed on record while the counter affidavit dated 11.03.2025 was filed before this Hon'ble Court. The said mistake is only due to inadvertence but neither wilful nor wanton."

11. In my considered view, the averments made therein adequately address the grievance of the petitioner and do not warrant any further interference by this Court. It is also not as though the first counter affidavit filed by the University dated 11.03.2025 was devoid of relevant information. For a fuller understanding of the roster point followed by



W.P.(MD) No.16232 of 2016

the University, it is necessary to extract paragraphs 6, 7, and 8 of the said affidavit, which read as follows:-

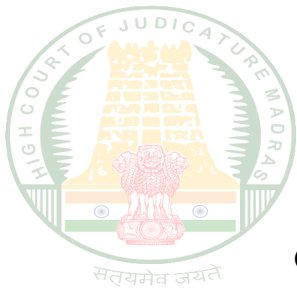
“6. The impugned advertisements have been issued by following 200-point roster scrupulously as per G.O.(Ms) No. 55 dated 08.04.2010 in and by which amendments have been made to the Part I & Part II of the Tamil Nadu State and Subordinate Service Rules (hereinafter referred to as the “Rules”). The said Government order amended Sub-Rule (c) to Rule 22 of the Rules by inserting an explanation with the proviso which is extracted hereunder:

“(2) For the explanation in Sub-Rule (c), the following explanation and proviso shall be substituted namely: -

Explanation – The vacancies arising on and from the 29th April 2009 shall be filled up as per Schedule III and all selections for appointment shall be started afresh from serial number one in the said Schedule II with effect on and from the said date:

Provided that the Notifications, if any already made by any of the recruiting agencies on or after 15th September 2007 with reference to 200point roster prescribed in G.O.Ms.No. 241, Personnel and Administrative Reforms (K) Department, dated, 29.10.2007, G.O.Ms.No.101, Personnel and Administrative Reforms (K) Department, dated 06-11-2008 need not be reopened and for further recruitments, the revised roster prescribed in the Schedule III shall be continued from the last turn upto which the selection was already made.”

7. I respectfully state that as per the said explanation if notifications / appointments were made on or after 15.09.2007 with reference to 200-point roster prescribed in the earlier G.O's the same need not be reopened and the revised roster prescribed in Schedule III shall be continued from the last turn upto which the selection was already made. Therefore, in the impugned notifications wherever the vacancy has not been notified from Serial No.1 i.e., from



WEB COPY



W.P.(MD) No.16232 of 2016

General Turn, the same has been filled up as per the 200-point roster prescribed in the earlier G.O.'s and as such the further vacancies have been called for from the last turn filled up already. In other words, they fall squarely within the ambit of the above proviso. The said fact could be elucidated by the following tabular column:

S. No	Name of the Department	Name/No. of the post	Roster as per the impugned advertisement	Earlier roster filled up	Earlier notification dated	Name of the Appointee / Date of joining
9.	Criminology & Criminal Justice	Assistant Professor -2	SC(A)/SC(P), MBC/DNC	GT	15.05.2007	Dr.S.Latha 03.10.2007

8. I respectfully state that prior to the issuance of G.O. (Ms)No.55 dated 08.04.2010, the similar position of roster was reiterated by the Government vide G.O.(Ms) No. 65 dated 27.05.2009 stating that the selections / appointments already made with reference to 200-point roster prescribed in the earlier G.Os, the same need not be reopened and for further selections / appointments, the revised roster shall be continued from the last turn upto which the selection was already made. Therefore, there is no violation of the provisions of 200-point roster in the impugned notifications and as such the allegations of the Petitioner raised in Para 8 of the affidavit are stoutly denied as false and misrepresentations. The allegations made in para 9 to 11 & 13 of the affidavit are denied as false and irrelevant to the issue on hand.”

12. In paragraph 13 of his affidavit, the petitioner has stated that he has no alternative remedy except to invoke the jurisdiction of this Court under Article 226 of the Constitution. It is unclear how such an



W.P.(MD) No.16232 of 2016

assertion can be made, as it is evident that the petitioner has overlooked the provisions of the Manonmaniam Sundaranar University Act, 1990.

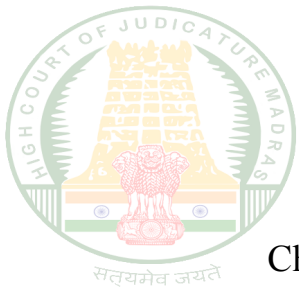
The Act confers visitorial powers on the Chancellor of the University under Section 7, which reads as follows:-

“7. (1) The Chancellor shall have the right to cause an inspection or inquiry to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipment and of any institution maintained, recognised or approved by, or affiliated to the University and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause such inspection or inquiry to be made and the University shall be entitled to be represented there at.

(2) The Chancellor shall communicate to the Syndicate his views with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the Syndicate thereon, advise the University upon the action to be taken and fix a time limit for taking such action.

(3) The Syndicate shall report to the Chancellor the action, if any, which is proposed to be taken or has been taken /upon the results of such inspection or inquiry. Such report shall be submitted within such time as the Chancellor may direct.

(4) Where the Syndicate does not take action to the satisfaction of the Chancellor within a reasonable time, the



W.P.(MD) No.16232 of 2016

WEB COPY

Chancellor may, after considering any explanation furnished or representation made by the Syndicate, issue such directions as he may think fit and the Syndicate shall comply with such directions. In the event of the Syndicate not complying with such directions within such time as may be fixed in that behalf by the Chancellor, the Chancellor shall have power to appoint any person or body to comply with such directions and make such orders as may necessary for the expenses thereof.”

13. That such a right constitutes an effective alternative remedy was considered by a Division Bench of this Court in *The Vice Chancellor, Bharathiar University v. B. Markandan*, reported in **2009 (4) MLJ 247 (DB) = 2009 Writ LR 6**. The Court, in paragraphs 9 and 10 of the judgment, held as follows:-

“9. But, the writ petition has been filed without exhausting the remedy, which is statutorily provided under the said Act namely., the remedy under Section 50. It is open to the writ petitioner to raise a dispute under the said Section before the Vice Chancellor with a prayer to refer it to the Chancellor of the University for a decision. Without doing the same the writ petition has been filed, the same has been entertained, and the impugned judgment has been delivered. Therefore, the specific statutory remedy has not been exhausted in this case.

10. It is no doubt true that the existence of a statutory remedy does not oust the jurisdiction of this Court under



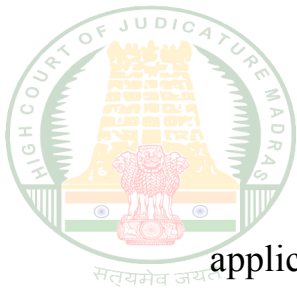
W.P.(MD) No.16232 of 2016

WEB COPY

Article 226 the Constitution. Existence of such a remedy merely operates as a restraint on the exercise of discretion by the Court in granting remedy under Article 226. The Hon'ble Supreme Court has carved out several situations where despite the existence of a statutory remedy a writ petition can be entertained. Broadly speaking those situations are namely, where there is a violation of a fundamental right of the applicant; or where there is total violation of the principles of natural justice; or where the authorities are acting under an invalid law; or where the parties are acting in flagrant abuse of their authority and in total violation of the statutory provisions. In those situations, the Hon'ble Supreme Court has held that a writ Court can entertain a petition, even if the petitioner has not exhausted his statutory remedy. Admittedly, the aforesaid situations are not available here.”

14. The writ petition is liable to be dismissed on this ground alone.

Furthermore, though the writ petition was filed in 2016 challenging three employment notifications, nine years have since elapsed without the petitioner apprising this Court of subsequent developments in the matter. Undoubtedly, pursuant to the impugned notifications, the selection process would have been completed, candidates would have been appointed, and they must by now have served nearly nine years in their respective posts. At this belated stage, quashing the original notifications would cause irreparable prejudice to those selected candidates, who have not been heard in these proceedings. The petitioner has not filed any



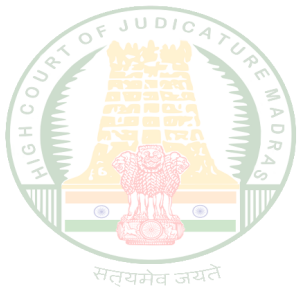
W.P.(MD) No.16232 of 2016

application to implead the selected candidates to enable them to defend their appointments. In their absence, the writ petition is not maintainable.

15. In this regard, it is pertinent to refer to certain judgments of the Hon'ble Supreme Court, particularly ***Prabodh Verma v. State of U.P., reported in 1984 (4) SCC 251***, wherein the Court held as follows:-

“...we would like to point out that the writ petition filed by the Sangh suffered from two serious, though not incurable, defects. The first defect was that of non-joinder of necessary parties. The only respondents to the Sangh's petition were the State of Uttar Pradesh and its concerned officers. Those who were vitally concerned, namely, the reserve pool teachers, were not made parties-not even by joining some of them in a representative capacity, considering that their number was too large for all of them to be joined individually as respondents. The matter, therefore, came to be decided in their absence. A High Court ought not to decide a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as respondents or at least by some of them being before it as respondents in a representative capacity if their number is too large..

A High Court ought not to hear and dispose of a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as respondents or at least some of them being before it as respondents in a representative capacity if their number is too large to join them as respondents individually, and, if the petitioners refuse to so join them, the High Court



WEB COPY



W.P.(MD) No.16232 of 2016

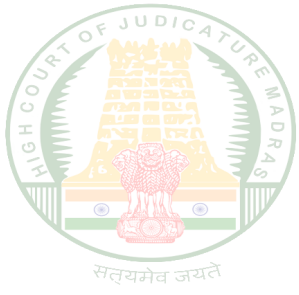
ought to dismiss the petition for non- joinder of necessary parties.”

16. The aforesaid decision was subsequently considered by the Hon’ble Supreme Court in ***Poonam v. State of U.P.***, reported in **2016 (2) SCC 779**, wherein it was quoted with approval. The Court observed as follows:-

“In ***Prabodh Verma v. State of U.P. and Tridip Kumar Dingal v. State of W.B.***, it has been held that if a person challenges the selection process, successful candidates or at least some of them are necessary parties.The said decision, as we understand, clearly spells out that in the absence of a necessary party, no adjudication can take place and, in fact, the non-joinder would be fatal to the case.”

17. Further, in ***Rajendra Kumar Shrivastava v. State of Madhya Pradesh***, reported in **2023 (5) SCC 364**, the Hon’ble Supreme Court made the following observations:-

“9. So far as challenge to the appointments made in excess of the quota under limited departmental competitive examination since 2007 and the appointments made in the year 2017/2018, no relief can be granted to the original writ petitioners in absence of those selected/appointed candidates.”



W.P.(MD) No.16232 of 2016

18. In view of the foregoing discussion, the writ petition is clearly not maintainable and, accordingly, W.P.(MD) No. 16232 of 2016 stands dismissed. However, considering that the petitioner is only a student and an aspirant for the post, no order as to costs is made. Consequently, connected Miscellaneous Petitions are closed.

08.08.2025

Index: Yes / No

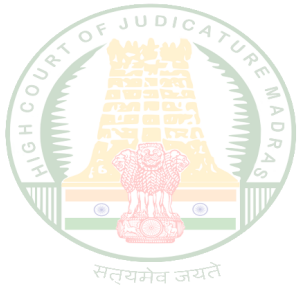
Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

LS

Copy to:

The Secretary,
Higher Education Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.



WEB COPY



W.P.(MD) No.16232 of 2016

DR. A.D. MARIA CLETE, J.

LS

Pre-delivery Judgment made in
W.P. (MD) No.16232 of 2016
and
W.M.P. (MD) Nos.11880 & 11881 of 2016

08.08.2025