

IN THE UNIVERSITY SERVICES APPEALS BOARD

USAB Application No 1000

In the matter of an appeal made under
Section 86 of the Universities Act No.
16 of 1978 and Universities
(Amendment) Act No.
7 of 1985 and 1 of 1995.

Mr. Muttukrishna Sarvananthan PhD
"Shanthi Mahal" Thambasetty, Puloly
West
Point Pedro, Northern Province

Appellant

VS

1. The University of Jaffna

2. Prof.K. Kandasamy,

Competent Authority,
Chairman of the Council,
University of Jaffna.

3. Prof. R. Vigneswaran,
Ex Vice Chancellor and Chair of
the
Selection Board,
Department of Mathematics,
University of Jaffna.

4. Dr. K. Suthakar,
Member of the Selection Board,

Dean/Faculty of Arts,
University of Jaffna.

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5. Mrs.V.Ravishankar,
Member of the Selection Board,
Head/Department of Economics,
University of Jaffna.

6. Prof. Ms. Anoma
Abhayaratne,
Member of the Selection Board,
Department of Agri-business,
University of Peradeniya.

Prof. P. Pushparatnam,
Member of the Selection Board,
Department of History,
University of Jaffna.

8. Prof. S.Chandrasiri,
Member of the Selection Board,
Department of Economics,
University of Jaffna.

9. Prof. O.G. Dayaratna
Bandara,
Member of the Selection Board,
Department of Economics and
Statistics,
University of Peradeniya.

10. Prof. Jeyadeva
Uyangoda,
Member of the Selection Board,
34/15, 3rd Lane, Kadawatha
Road,
Kalubowila,

11. Mr. V. Kanagasabapathy,
Member of the Selection Board,
Council Member,
University of Jaffna.

12. Prof. Selvaratnam
Santhirasegaram, 216/8,
Sir Ponnambalam
Ramanathan Road,
Thirunelvely.

13. Mr. Visvanathan
Kandeepan, Registrar &
Secretary to the Council
(in August 2019 & March
2022).

14. Dr. T.
Mangaleswaran, former
Rector, Vavuniya Campus of the
UoJ & then Council Member.

15. Prof. G. Mikunthan,
former Dean, Faculty of
Graduate Studies & then
Council Member.

16. Prof. J.P. Jeyadevan,
former Dean, Faculty of
Science & then Council
Member.



17. Prof. (Ms) T. Mikunthan, former Dean, Faculty of Agriculture & then Council Member.
18. Dr. S. Raviraj, former Dean, Faculty of Medicine & then Council Member.
19. Prof. A. Atputharajah, former Dean, Faculty of Engineering & then Council Member.
20. Prof T. Velnamby, former Dean, Faculty of Management & Commerce & then Council Member.
21. Dr. (Ms) S. Sivachandran, former Dean, Faculty of Technology & then Council Member.
22. Dr. A. Pushpanathan, former Dean, Faculty of Business Studies (Vavuniya) & then Council Member.

23. Mr. S. Kuhanesan,
former Dean, Faculty of
Applied Science
(Vavuniya) & then Council
Member.

24. Prof P. Ravirajan, former
Senate representative to
the then Council.

25. Ms. S.
Abimannasingham, UGC
nominee to the then
Council.

26. Dr. Aru Thirumurugan,
UGC nominee to the then
Council.

Dr. P. Eswaradasan, UGC
nominee to the then
Council.

28. Dr. D.K.P.U. Gunatilake,
UGC

29. Rev. M. Jero
Selvanayagam, UGC
nominee to the then
Council.

30. Mr. V. Kanagasabapathy,
UGC nominee to the then
Council.

31. Dr. P. Lakshman, UGC
nominee to the then
Council.

32. Mr. Mano Sekaram, UGC
nominee to the then
Council.

33. Dr. T. Sathyamoorthy,
IJGC nominee to the then
Council.
34. Dr. S. Sivasekaram, UGC
nominee to the then
Council.
35. Prof. C. Sivayoganathan,
UGC nominee to the then
Council.
36. Prof. Jeyadeva
Uyangoda, UGC nominee
to the then Council.
37. Mr. N. Vethanayahan,
UGC nominee to the then
Council.
38. Mr. N. Vishnukanthan,
UGC nominee to the then
Council.

Respondents

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Mr. M. Sarvananthan the Appellant appeared in person.

Ms. F. Piumi Jayawickrema Attorney-at-Law for the 1st-11th Respondents

Mr. M. Jude Dinesh, Attorney-at-Law for the 12th Respondent

On this 8th day of February, 2023.

ORDER

1. The Appellant filed petition of appeal dated 5th December 2019 which was received by the University Services Appeals Board (USAB) on 9th December 2019. Attached thereto were documents marked AI to A8. The 1st to 11th

Respondents filed answer dated 30th January 2020 with documents attached thereto marked RI to R15. The 12th Respondent filed Answer dated 24th February 2020. The Appellant tendered his counter affidavit dated 23rd April 2020 with documents marked A9 to A27. The 1st to 11th Respondents tendered an answer dated 14th September 2020 to the counter affidavit of the Appellant. On or about 20th August 2020 the Board, in response to a letter dated October 18, 2020 from the Appellant, permitted the Appellant to include the name of Prof. S. Srisathkunarajah Vice Chancellor, University of Jaffna as an additional Respondent (Respondent No 2a) and to serve a notice on him. On 9 March 2022 the Appellant sought permission to amend the caption and accordingly the Board has permitted the same. An amended Petition bearing the legend "On this Fifth (05th) day of December 2019 (as amended on 23rd March 2022)" and an amended counter affidavit bearing the legend "on this twenty third (23rd) April (as amended on 23rd March 2022)" has been received by the USAB on 20th April 2022 containing amended captions.

2. The Appellant in his Petition of Appeal, inter-alia, seeks to challenge (a) the appointment of the 12th Respondent as the Professor in Economics (on merit) in the Department of Economics in the University of Jaffna, (b) the process of leading to the said appointment of the 12th Respondent and (c) a warning issued to the Appellant by the University of Jaffna.
3. Apart from the Pleadings and documents referred to above the record comprises of the material enumerated below-

Letters dated 31st May 2020 and 28th June 2020 from the Appellant seeking interim relief.

Letter dated 29th June 2020 from the Appellant referring to alleged abuse of power by the Competent Authority.

- (iii) Letter dated 1st January 2022 from the Appellant. The Appellant enclosed with that letter a document entitled "documentary evidence in support of the USAB appeal No. 1000 inquiry schedule to be held on January 19, 2022" annexing thereto documents marked A28 to A39.

Another letter dated 1st January 2022 with documents annexed thereto including a copy of a report of a formal disciplinary inquiry held against the Appellant by the University of Jaffna.

- (v) A synopsis titled ^usupplementary evidence in support of the USAB Appeal 1000 inquiry scheduled to be held on March, 04 2022 sent in advance to the USAB and the Respondents on April 23 , 2022" along with documents marked A40 to A47.
- (vi) A letter dated 11th June 2022 from the Appellant with a reference to Circular No 11 of 2019(i) dated 8th November 2019.

4. The case as presented by the Appellant may be summarised as follows:—
 - a) The 12th Respondent had applied for the post of Professor in Economics in the University of Jaffna.
 - b) The Appellant alleged fraud in the application and irregularities in the process of appointment.
 - c) The Appellant complained in writing to the Chairperson of the University Grants Commission about the same by letter dated 17th May 2019 with a copy to the then Competent Authority of the University of Jaffna.
 - d) The Appellant made yet another complaint dated 21st June 2019, in writing to the Chairperson of the Council of the University of Jaffna (who the Appellant pleaded was the Competent Authority of the University of Jaffna at that time). The Appellant also pleaded that the complaint dated 21st June 2019 was copied to all members of the Council of the University of Jaffna and annexed a letter dated 21st June 2019 addressed to "ALL the Members of the Council of University of Jaffna".
 - e) The specific allegations against the 12th Respondent and the alleged irregularities in the process with alleged evidence are set out in paragraphs 5 to 19 of the Petition of Appeal of the Appellant.
 - f) The Appellant claimed that notwithstanding the aforesaid the University of Jaffna has appointed the 12th Respondent as Professor in Economics in August 2019.
 - g) The Appellant claimed that the University of Jaffna without investigating the matters complained of by the Appellant had severely warned the Appellant and sought explanations from the Appellant by a letter dated 21st August 2019 annexed to the petition of appeal marked as A8.
 - h) The Appellant set out in paragraph 21 of the Petition of Appeal the perceived injustices he claimed were suffered by the Department of Economics as a whole, as well as other members of the academic staff including the Appellant due to the alleged irregular and alleged improper appointment of the 12th Respondent.
5. We note that the Appellant has been appointed a Senior Lecturer Grade I in the Department of Economics of the University of Jaffna with effect from 6th May 2019. The University of Jaffna had been under the purview and control of a Competent Authority at the time of the aforesaid appointment of the Appellant as well as during the process leading to the appointment of the 12th Respondent to the post of Professor in Economics in the University of Jaffna.
6. The 1st to the 11th Respondents have raised the following preliminary objections and sought a dismissal of the appeal in limine on the said grounds-

- a. The Appellant was neither a party nor an employee of the 1st Respondent University at the time of the alleged contravention, therefore, the Appellant has no locus standi to institute and maintain his appeal before the USAB.
- b. The Appeal of the Appellant is time barred in terms of section 4(3) of the University Services Appeals Board Ordinance No 1 of 1991 (the "USAB Ordinance") as the Applicant has failed to come before the USAB within three months of the alleged contravention appealed against.
- c. The USAB has no jurisdiction to hear and determine this Appeal or grant the reliefs prayed for by the Appellant in terms of section 86 of the Universities Act No 16 of 1978 (the

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University Services Appeals
Board

"Universities Act").

- d. The relief sought by the Appellant cannot be granted by the USAB.
- e. The Appellant has failed to cite necessary parties as Respondents to this Application.
- f. The Appellant has suppressed and misrepresented material facts before USAB.

7. The position of the 1st to the 11th Respondents to the substantive matter as set out in their

Answers, may be summarised as follows: -

- a) The Appellant was appointed a Senior Lecture Grade 1 with effect from 06/05/2019 subject to a probationary period of three years and the Appellant assumed duties on 08/05/2019.
- b) The Appellant had made a complaint to the Chairman of the University Grants Commission by letter dated 23/04/2019 which was prior to the appointment of the Appellant to the 1st Respondent University.
- c) The 12th Respondent applied for appointment to the Post of Professor in Economics at the Jaffna University on 23/07/2015 as an internal candidate and the recruitment for the position of the Professor is governed by Circular No 916 of 30/09/2009 (R2) and the Establishment Circular letter No 04/2010 dated 19/03/2010 (R3).

- d) The 12th Respondent forwarded his application as per above circulars and all the steps required to be followed as per the circulars were observed by the University.
- e) The Senate appointed two external experts to evaluate the 12th Respondent's contribution to research and creative work and the evaluation reports of the two external experts were received by the University on 09/08/2016 (R5) and 08/02/2017 (R6).
- f) As there was a wide variation between the marks of the external experts a discussion was arranged between the experts in order to reach a consensus. Such consensus could not be reached and accordingly steps were taken to appoint a third external expert in compliance with Circulars referred to above (R2 and R3) and the report of the third external expert was received by the University on 29/01/2019 (R7).
- g) Simultaneously, as per the scheme of recruitment R2 and R3 a Senate Panel was appointed and constituted on 13/09/2016 in order to evaluate the 12th Respondent's

Educational Activities and Dissemination of knowledge, contribution to University and

National Development and the recommendations of the Senate Panel were annexed marked R8.

- h) The final selection Committee was convened on 03/05/2019 and its recommendations were forwarded to the Council for its approval. The Respondent also annexed marked RIO the mark sheet of the Selection Committee.

- i) The Council on 27/07/2019 confirmed the promotion of the 12th Respondent to the post of Professor in Economics on merit basis with effect from 27/03/2015 (RII) via letter dated 01.08.2019.

- j) Therefore, the appointment of the 12th Respondent to the position of Professor in

Economics was done in accordance with the existing schemes of recruitment R2 and R3.

- k) The University Grants Commission by its letter dated 02/05/2019 requested a report from the 1st Respondent University with regard to the allegations made by the Appellant in letter dated 23/04/2019 and the University by letter dated 24/05/2019 forwarded the explanation to the Chairman of the University Grants Commission (R12).

- l) Appellant maintained subsequent communications with the University Grants Commission in regard to the appointment of the 12th Respondent as the Professor in

Economics by Appellant's letter dated 17/05/2019 (R13).

- m) The Council of the University at its 438 and 439 meetings regrettably noted that the Appellant had acted in a manner unbecoming of an academic which construed a breach of confidence bestowed on him by the University and decided to call for explanation from the Appellant (R14 and R15).
 - n) The Appellant forwarded his explanation and further action was pending.
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- 8. The 12th Respondent in his Answer dated 24th February 2020 has, inter-alia, denied the allegations made against him by the Appellant and raised a preliminary objection on the basis that the necessary parties namely the members of the Council of the University have not been joined as parties and thus the Appeal must be dismissed in limine.
 - 9. The appeal was fixed for inquiry before the previous Board on several occasions but had not been taken up for inquiry for the reasons stated in the Record. Thereafter the matter was fixed
 - 10. The matter came up for inquiry on the 9th March 2022 and after hearing the parties the Board decided that all matters arising in this appeal including the preliminary objections will be considered together and an Order made on the appeal as a whole.
 - 11. On 9th March 2022, after hearing all the parties, the Board directed the 1st to the 11th

Respondents to provide responses to the following matters-

- 1. Response to the allegations related to plagiarism raised by the Appellant and particularly those relating to the chapter in the book which are alleged to have been plagiarised word for word by the 12th Respondent.
- 2. The response of the University to allegations raised by the Appellant that some articles submitted by the 12th Respondent were articles published in journals which are styled ^U "Predatory Journals".

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- 3. The policy of the University on the basis on which articles submitted by academics are considered acceptable for consideration for promotion or appointment to academic positions and whether the articles submitted for consideration by the 12th Respondent satisfied the University Policy on this matter.

4. The University's Policy towards plagiarism by members of the Staff.
 5. Whether the University had made any inquiries relating to the matters raised by the Appellant in the letter annexed to the Petition of Appeal marked A2 and in particular the allegations relating to plagiarism and the allegation of publication of the articles in disreputable or questionable journals.
12. Apart from the aforesaid the Board in its investigation required the following information/material/clarifications on the matters set out below which are recorded in the proceedings of 9.3.2022 -
- The Vice Chairman of the USAB questioned the Respondents regarding the discussion which was arranged between the experts in order to reach the consensus as there was a wide variation between the marks given by the two external experts.
 - In response to the question of the Vice Chairman, the Counsel for the Respondents informed the Board that she wishes to submit the summary sheet regarding this matter on the next date.
 - The Chairman inquired from the Counsel for the 1st to the 11th Respondents whether the Assessor from Pakistan was conversant in the Tamil Language.
 - The Counsel for the 1st to the 11th Respondents in response informed that the Assessor was not conversant in Tamil language and he was given a translated detailed summary of the publications. Counsel for the 1st to the 11th Respondents undertook to submit at the next hearing a copy of the detailed summary given to the Assessor from Pakistan.
 - The Board requested the Counsel for the 1st to the 11th Respondents to provide the credentials or a copy of the Curriculum Vitae of the Assessor from Pakistan by the next date of hearing.
 - Vice-Chairman indicated to the Counsel for the 1st to the 11th Respondents that they have not submitted the summary sheet of marks of the original second evaluator who has given lower marks and requested the Counsel to submit before the next hearing date the relevant documents along with the other documents and information requested.
 - On being questioned by Mr. Sugath Caldera, Attorney-at-Law, member of the Board, the Counsel for the 1st to the 11th Respondents informed that summary reports have been submitted to them in English as well in original language and at the initial stage due to language barrier one evaluator had declined to participate in the evaluation.

13. On 9th March 2022 the Board directed the Respondents to file written submissions before the next date of inquiry. Appellant was permitted to file further submissions if so inclined. The Appellant was permitted to amend the caption by including as parties to the appeal, the persons referred to by the Respondents in their preliminary objections. The Board directed the Counsel for the Respondents to submit all documents and answers relating to the queries one week before the next date of inquiry. The next date of inquiry was fixed for 4th May 2022.
14. When the matter was taken up for further inquiry on the 4th May 2022, the information/material and clarifications requested had not been submitted by the relevant Respondents. At the request of the Counsel for the 1st to the 11th Respondents further two weeks were granted to comply with the same.
15. By communication dated 9.5.2022 the Attorney-at-Law for the 1st to the 11th Respondents addressed the Vice Chancellor of the University of Jaffna and informed him inter alia as follows.

¹The Chairman, USAB directed that the following queries be answered by the Respondents by way of a letter signed under the signature of the Vice Chancellor of the 1st Respondent University. The queries raised are as follows:

1. The response in particular to the comments related to plagiarism raised by the Appellant and in particular the chapter in the book which is alleged to have been plagiarized word for word.
2. The response of the university to allegations by the Appellant that some articles submitted by the 12 Respondent were published in journals which are styled "predatory journals".
3. The policy of the University on the basis on which articles submitted by academics are considered acceptable for consideration for promotion or appointment to academic position and whether the articles submitted for consideration by the 12th Respondent satisfy the University Policy on this matter.
4. The University's Policy towards plagiarism among members of the staff.
5. Whether the University had made any inquiries relating to the matters raised by the Appellant in the letter marked as A2 and in particular the allegations relating to plagiarism and publications in disreputable or questionable journals.
6. The credentials and the Curriculum Vitae of Mr. Hasar M Sabir the 3^d expert appointed.

Please provide documentary proof if any for the above queries raised when answering them.

Please note that the same should be answered within 2 weeks of the last hearing which is on or before the 18.05.2022, with a copy to the Appellant.

This matter is fixed for further hearing on 22.06.2022."

16. The Vice Chancellor of the University of Jaffna by letter dated 19.5.2022 received by the USAB on 26th May 2022 provided the following response.

"1. While giving the response in particular to the comments related to plagiarism raised by the appellant.

and

While giving response of the University to allegations by the appellant regarding some articles submitted by the 12th respondent, and

While giving the response regarding the policy of the University on the basis on which articles submitted by academics are considered acceptable for consideration for promotion or appointment to academic position and whether the articles submitted for consideration by the 12th Respondent satisfy the University policy on this matter.

The respondents state as follows:

Selection Committee went through the documents and the marks allocated by the Senate Panel and Experts as per the marking scheme and observed the deficiencies and marks were allocated with the adjustments. After the adjustments the Selection Committee noted that the candidate satisfied the condition stipulated in the Column 4 of the marking scheme for promotion to the Post of Professor. Hence, the Selection Committee recommended Dr. S.

Santhirasegaram be promoted to the Post of Professor in Economics.

2. While giving the response regarding the University's policy towards plagiarism among members of the staff. Section 2.1 of University Grants Commission Circular No. 916 stated as follows:

2.1 Peer reviewed publications (including invited editorials in indexed Journals)

2.1.1 Research publications in refereed journals (full paper published)

- i. Upto 3 points/paper in a journal that publishes at least two issues per year.
- ii. Upto 2 points/paper in a journal that publishes less than two issues per year.
- iii. Add 2 points/paper if the paper published in a recognized indexed journals.

Note 1:

Recognized index journals are listed at <http://www.isinet.com/journals>

Further, the University of Jaffna has the obligation to follow the following Policies and By Laws to ensure academic quality by excluding predatory journals in the evaluation process.

Section 9 of the '(Codes of Practice on Academic Accountability for Academic Staff in Sri Lankan University System" which was published by Quality Assurance and Accreditation Council, University Grants Commission of Sri Lanka in March 2012.

- ii. Section 1.11 and 15 of 'IA Policy Document on Academic Accountability which was published by Internal Quality Assurance Unit (IQUA) of University of Jaffna in December 2015.
- iii. Section 3 of By-Laws for Scholarly Publications of University of Jaffna.
- iv. Senate Memo S/453/04/ACA/(i) regarding Publication Ethics for the Academic Staff.

Therefore, the Academic staffs should follow the existing policies regarding recognized journals while they submit their applications.

- 3. While giving the response to the matters raised by the appellant in the letter marked

as A2,

- (a) The Appellant was appointed as Senior Lecturer (Grade I) with effect from 08.05.2019 and that the Appellant had prior to his appointment to the

1st Respondent University, Appellant lodged a complaint with the University Grants Commission on 23.04.2019 challenging the appointment of the 12th Respondent as the Professor in Economics in the 1st Respondent University.

- (b) The University Grants Commission by its letter dated 02.05.2019 requested a report from the 1st Respondent University with regard to the said allegation.
- (c) The 1st Respondent University by virtue of its letter dated 24.05.2019 forwarded the explanation to the Chairman of the University Grants Commission.

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Appellant further maintained subsequent communication with the University Grants Commission in regard to the appointment of the 12th Respondent as the Professor in Economics at the 1st Respondent University by his letter dated 17.05.2019.

- (e) The Council at its 438th meeting regrettably noted that the Appellant had acted in a manner unbecoming of an academic which construed a breach of confidence bestowed on him by the 1st Respondent University and hence decided to call for explanation from the Appellant."

17. On 22/06/2022 parties agreed that the matter can be decided by the Written Submissions already filed of record.

18. We have considered all the material before us as referred to above including the written submissions and counter submissions of the Appellant and clarifications given in writing on several occasions including those of the Vice Chancellor of Jaffna in his letter dated 19.5.2022.

PRELIMINARY OBJECTIONS

19. The 1st to the 11th Respondents have taken up the following preliminary objections in their answer and in their written submissions.

- (a) The Appellant was neither a party nor an employee of the 1st Respondent University at the time of the alleged contravention, therefore, the Appellant has no locus standi to institute and maintain this application before USAB.

The Appeal of the Appellant is time barred as per section 4(3) of the USAB Ordinance as the Applicant has failed to come before USAB within three months of the alleged contravention appealed against.

The USAB has no jurisdiction to hear and determine this Appeal or grant the reliefs prayed for by the Appellant in terms of section 86 of the Universities Act.

(d) The relief sought by the Appellant cannot be granted by the USAB.

The Appellant has failed to cite necessary parties as Respondents to this appeal.

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The Appellant has suppressed and misrepresented material facts before USAB.

20. The Counsel for the 12th Respondent at the hearing associated himself with the preliminary objections raised by the 1st to the 11th Respondents and emphasized on the question of lack of locus standi and the jurisdictional objection. We propose to deal with the preliminary objections raised by all the Respondents together.
21. The First preliminary objection is that the Appellant was neither a prospective candidate to the position of concern nor a party or an employee of the 1st Respondent University at the time of the alleged contravention and therefore, the Appellant has no locus standi to institute and maintain this Appeal. (Emphasis is ours)
22. Locus standi is a sufficient interest to seek a remedy in an appropriate forum or the right or capacity to bring an action or to appear in a court. Admittedly the Appellant had applied for appointment as a Senior Lecturer Grade I in the University prior to the alleged promotion of the 12th Respondent and in fact the Appellant's appointment had been pending from 08/08/2018. Vide paragraph 2 a (ii) of the Counter affidavit of the Appellant dated 23rd April 2020. The Appellant's appointment had been made on the 08/05/2019 with effect from 6/5/2019. The decision to promote the 12th Respondents was made on the 1st August 2019 after the appointment of the Appellant. The Appellant's appointment and the 12th Respondent's promotion are to different positions in the same University and in the same Department namely Department of Economics. The Appellant was not a prospective candidate to the position to which the 12th Respondent was promoted. Neither was he an employee of the 1st Respondent University when many of the procedural flaws in the process of appointment took place. He was however an employee of the University at the time

the decision was made to promote the 12th Respondent to the position of Professor in Economics of the Department of Economics in which the Appellant was a Senior Lecturer Grade I. The procedural flaws do not give rise to any consequence until and unless an appointment is made following through on the allegedly flawed procedure. According to the 1st to the 11th Respondents the Appellant has made a complaint regarding the process leading to the promotion of the 12th Respondent on or about 23/04/2019 which is admittedly a date prior to the date of appointment of the Appellant as Senior Lecturer

Grade I. Vide paragraph 3 of the Answer of the 1st to the 11th Respondents. The 1st Respondent University thus submits that the Appellant has made a complaint to the Chairman UGC at a time prior to the Appointment of the Appellant as an employee of the 1st Respondent University. The

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Appellant was however an employee in the same department of the University of Jaffna as the 12th Respondent at the time (a) the 12th Respondent was appointed Professor in Economics and (b) at the time the Appellant filed this appeal to the USAB.

23. The jurisdiction conferred upon the Board by Section 86(a) of the Universities Act is as follows-

- (a) to conduct investigations into appointments and promotions alleged to have been made to the staff of the Commission and to Higher Educational Institutions in contravention of the schemes of recruitment and the procedures for appointment in force at the time such appointments or promotions were made or alleged to have been made and into allegations that appointments or promotions have not been made to posts when vacancies have arisen in such posts.

24. Section 86(a) encompasses a very wide spectrum of situations. It even contemplates a situation which could give rise to investigations by the USAB into allegations that appointments or promotions have not been made to posts when vacancies have arisen in such posts. For instance, if the 1st Respondent University for any reason whatsoever has failed to call for applications for any post/s either by way of promotion or appointment the question arises as to who could invoke the jurisdiction of the Board under and in terms of section 86(a)? In our view it should be open for any person with sufficient interest to invoke this jurisdiction. Apart from any prospective candidate/s who may be eligible to apply for such promotion/appointment, this jurisdiction could be invoked by a citizen, an employee of the University or even a student or any taxpayer for that purpose provided that the

USAB is satisfied that such person has sufficient interest in the matter. In the same manner when appointments /promotions alleged to have been made to the staff of the Commission and to Higher Educational Institutions in contravention of the schemes of recruitment and the procedures for appointment in force at the time such appointments or promotions any person with sufficient interest should be able to invoke the jurisdiction of the USAB under and in terms of section 86(a). This does not mean that a mere busy body can invoke the jurisdiction under section 86(a). Each case is different and such decision will be made after scrutiny of the facts and circumstances of each case. Suffice to say, that we are satisfied that the Appellant in the appeal before us has shown sufficient interest and capacity to have institute and maintain this appeal/application under section 86(a). The Appellant's application for the post of Senior Lecturer Grade I to the same Department of Economics was pending at the time of the alleged contravention. In any event the alleged

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promotion has taken place in August 2019 and by the time such promotion was decided the Appellant was an employee of the 1st Respondent and thus it could be construed as a continuing violation of the Appellant's rights. In other words , merely because the Respondents have chosen the date of the complaint to the UGC namely 23/04/2019 which happened to be a date prior to the date of appointment of the Appellant to the 1st Respondent University as the alleged date of the alleged contravention, that date does not ipso facto become date of the contravention as it was an on-going process which was crystalized only after the promotion of the 12th Respondent as a Professor. Even such promotion is subject to an appeal to the USAB.

We further note that any person appointed as a Professor in Department will get seniority over Senior Lecturer, Lecturer etc. Therefore, any appointment in contravention of the Scheme of Recruitment and procedure would violate the rights of the Appellant as Senior Lecturer. Moreover, the Appellant has challenged the issue of warning the Appellant severely by the 1st Respondent University by A8 consequent upon the decision contained in R14. Thus we hold that the Appellant has sufficient interest and standing to have instituted this Appeal. The authority cited by the Respondents namely *Somawathie v Weerasinghe* (1990) 2 Sri LR 121 (and not page 192 as stated in the written submissions) has no application to the issue in hand as the said authority deals with a situation under Article 126(2) of the Constitution which is different and distinct from section 86 of the Universities Act as amended. Thus, we are of the view that application of section 86 or any sub clause thereof cannot be restricted by resort to technicalities, and it is the duty of this Board to apply the section in its correct perspective. In the circumstances of this matter, we are satisfied that the Appellant has locus standi to have and maintain this matter.

25. The next preliminary objection is that the appeal of the Appellant is time barred as per section 4(3) of the University Services Appeals Board Ordinance No 1 of 1991 as the Applicant has failed to come before USAB within three months of the alleged contravention appealed against.
26. The record, the pleadings and the annexes reveal that the Appellant has been agitating this matter from 23/04/2019. The Appellant has first brought the matter to the attention of the

Chairperson of the UGC by his communication dated 23/04/2019 with a copy to the
Competent

Authority of the 1st Respondent University at a time the Appellant was not an employee of the 1st Respondent University. Thereafter as admitted by the parties the Appellant has communicated yet again with the UGC by his letter dated 17/05/2019. Vide paragraph 5(d) of the Answer of the 1st to the 11th Respondents. As per A9 and AIO attached to the Counter

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affidavit of the Appellant, the Appellant has made an appeal dated 23/08/2019 to the USAB and the USAB having considered such Appeal has informed the Appellant to file an Application as per USAB Ordinance No 1 of 1991.

27. Even though the Universities Act does not stipulate a time within which an appeal shall be preferred to the USAB, Section 4(3) of the USAB Ordinance provides that the petition must be forwarded within 3 months of the date of the act, decision or order appealed against. Section 6 of the USAB Ordinance empowers the USAB upon sufficient cause being shown to accept a petition submitted even after the expiration of the said period of 3 months. In the circumstances, the Board has been expressly authorised by the USAB Ordinance to accept

Petitions filed out of time in appropriate circumstances. The promotion has been made on the 1st August 2019 and the Application has been made on the 4th December 2019. We are satisfied that the circumstances set out in the paragraph above constituted sufficient cause to exercise discretion to accept the appeal notwithstanding that it has been filed after the expiration of 3 months from the date of the act, decision or order complained of. We are mindful that the previous Board would have considered such reasons prior to it decided to accept the Petition of Appeal after the expiration of 3 months referred to in section 4(3) of the Ordinance and the previous Board was privy to A9 and AIO referred to above.

28. The Respondents have cited several authorities in support of their proposition that a Petition filed out of time must be dismissed in limine. We have considered those authorities and are of the view that those authorities have no relevance to the question at issue as the Ordinance which has stipulated the time within which a Petition has to be forwarded has also empowered this Board to accept the Petitions forwarded beyond the time so stipulated for sufficient cause. In any event the authorities cited have dealt with situations that have arisen in applications that have been preferred to Labour Tribunal, the Court of Appeal invoking the Writ Jurisdiction and, in an application, where Leave to Appeal was preferred out of time to the Supreme Court. Different provisions of law are applicable in such situations and no provision comparable to section 4(3) of the Ordinance is found.

29. In the circumstances we are satisfied that the Petition of Appeal has been accepted according to law by the previous Board. Thus, this objection too is overruled.

30. The next preliminary objection is that the USAB has no jurisdiction to hear and determine this Appeal or grant the reliefs prayed for by the Appellant in terms of section 86 of the Universities Act No 16 of 1978.
31. The Jurisdiction of the Board is set out in section 86 of the Universities Act. In terms of section 86 the Board shall have and may exercise the following powers, duties and functions.
- (a) To conduct investigations into appointments and promotions alleged to have been made to the staff of the Commission and to Higher Educational Institutions in contravention of the schemes of recruitment and the procedures for appointment in force at the time such appointments or promotions were made or alleged to have been made and into allegations that appointments or promotions have not been made to posts when vacancies have arisen in such posts.
 - (b) To consider appeals from employees of the Commission or any Higher Educational Institution, who have been dismissed, compulsorily retired, or otherwise punished for misconduct, inefficiency or dereliction of duty, against such dismissal, compulsory retirement or other punishment.
 - (c) To consider appeals from employees of the Commission who were employees of the old University or any Higher Educational Institution, relating to compensation payable to employees of the old University under section 142 of this Act.
 - (d) To convey to the Chairman of the Commission or the principal executive officer of the Higher Educational Institution concerned, as the case may be, the decisions arrived at after considering such appeals or conducting such investigations.
32. The instant appeal/application revolves around a promotion alleged to have been made in contravention of the scheme of recruitment and procedures for such promotion. This Board is thus empowered to act in terms of section 86(a) read with 86(d).
33. The Respondents submit that the use of the word "Appeal" by the Appellant in the caption disentitles the Appellant from invoking any other jurisdiction apart from an appellate jurisdiction



and since the USAB does not have appellate jurisdiction in terms of section 86(a) the Appellant has attempted to invoke a jurisdiction the USAB does not possess.

34. We are unable to agree with this submission. The nomenclature used in a caption in an application made by a person before an administrative tribunal such as USAB cannot be construed to mean and/or restrict its jurisdiction. We have considered the authorities cited by the Respondents in support of this objection. The authority namely *Martin Vs Wijewardena* (1989 2 Sri LR 409) cited by the Respondents has no application to the instant matter.
35. We are mindful of the fact that we will exercise the jurisdiction that has been bestowed on us and nothing more and our jurisdiction is limited to the four corners of section 86.
36. In the circumstances, we conclude that the USAB has jurisdiction to act under section 86(a) read with section 86(d) of the Universities Act in respect of the subject matter of the instant appeal.

Thus, the aforesaid objection as to the Jurisdiction is overruled.

37. As to the next preliminary objection that the relief sought by the Appellant cannot be granted by the USAB, we are of the view that our determination above clarifies this. If we are to re-iterate the jurisdiction that will be exercised by the USAB in this appeal/application will be strictly in terms of sections 86(a) and 86(d) and we are mindful that we have no power or jurisdiction to quash any promotion or appointment or invalidate any promotion. Nor do we have any power to order financial compensation for any mental trauma. Our Orders will be limited to those on which we have jurisdiction under sections 86 of the Universities Act.
38. The next preliminary objection is the failure to cite the necessary parties as Respondents. These objecting Respondents have stated that the Appellant has failed to cite the Council Members of the 1st Respondent University as Respondents. The Appellant amended the caption and made these Council members parties to this application by his amended caption/Petition dated 23rd March 2022. In the circumstances it is not necessary to labour any further on this objection but suffice to note that when the 1st Respondent University has been made a party in the application it is in fact redundant to bring in any other Respondents as Council Members unless there are specific allegations against such members qua members of the Council or in their individual capacity as Council members. Such additions will unnecessarily burden the record and also will
39. The 12th Respondent has also raised a further preliminary objection on the basis that the Appellant has not come before this Board with clean hands and the purpose of his appeal creates serious doubts about his bona fide. This submission is not borne out by the material before us. In any event bona fides and coming before a tribunal with clean hands are relevant in the area of equitable remedies/discretionary remedies where parties are supposed to seek relief/redress in forums where

equitable remedies are available. Thus, in our view, this objection is not relevant when a person is in invoking a statutory right of appeal.

THE MATTERS (QUESTIONS THAT NEED INVESTIGATION AND DETERMINATION

40. Our jurisdiction in this appeal is limited to the matters set out in section 86 of the Universities Act. We are not able to go into the merits of the appointment that has been made or step into the shoes of the External Experts/Selection Committee in order to see whether the 12th Respondent is qualified for the alleged promotion, nor do we intend to do so.
41. The evaluation and assessment of an applicant/candidate is purely a matter for the experts in such fields. If the External Experts/Selection Committee have been appointed in terms of the circulars in force, and, the evaluation follows the procedure laid down in the circulars any evaluation and assessment of candidates remains within the domain of the External Experts/Selection Committee. Thus, as long as the correct procedure has been followed without any deviation as per existing laws and circulars/regulations, we cannot and do not intend to interfere.
42. In this instance after scrutiny of the pleadings and all the relevant documents/relevant material placed before us, in our view, there are procedural matters that need our attention and further investigation. We have several concerns about the manner in which the process of evaluation leading to the promotion of the 12th Respondent has been proceeded with. If we are to set those concerns out, they are namely-
- a. Whether the 1st Respondent University followed the correct procedure as set out in the Scheme of Recruitment and Circulars in the process leading to the promotion of the 12th Respondent?

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- b. Whether the External Experts were appointed as per the approved procedure set out in relevant Circulars and due procedure was followed thereafter as to the assessment and evaluation?

- c. Should the 1st Respondent have given consideration to the complaints of the Appellant?
 - d. Whether the 1st Respondent is justified in the manner it warned the Appellant as contained in R14 and A8?
43. The allegations against the 12th Respondent's alleged appointment revolves around several issues including plagiarism, publications in the predatory Journals and appointment of an External Expert/Assessor who is not qualified to evaluate and who is incapable of evaluating material published in the Tamil Language.
44. We note that the Appellant has corresponded-
- a. With the Chairperson of UGC by his letter dated 23/04/2019;(not made available in the record but only referred to in the pleadings and correspondence)
 - b. With the Chairperson UGC with a copy to the then Competent Authority of the 1st Respondent University with his Communication dated 17/05/2019;(A1)
 - c. With the Chairperson of the Council of the 1st Respondent University by his communication dated 21st June 2019;(A2)
45. The crux of all these correspondences was the alleged irregularities in process of promotion of the 12th Respondent as Professor in the Department of Economics. The Appellant is very specific about these allegations and details are given in the pleadings and documents filed by the Appellant before the USAB.
46. The Answers filed by the 1st to 11 and/or the 12th Respondents do not respond to these matters.
47. At the inquiry before us, we called for information/answers that were necessary in our opinion to investigate further these. Vide proceedings dated 09/03/2022. However, the 1st to the 11th Respondents failed to comply with the same.
48. As set out previously in this Order when the matter was taken up for further inquiry on the 4th
- May 2022, the information /material and clarifications requested on 09/03/2022, had not been

Chancellor of the University of Jaffna by his letter dated 19th May 2022 (received at the Board on the 26th May 2022) has belatedly sent his responses not addressing several of the matters on which we sought information and clarification. While the Vice Chancellor has provided us the policy framework and policy document relating to plagiarism, he has failed to provide any information as to whether any inquiries had been made by the University on the alleged plagiarism by the 12th Respondent in the material submitted for evaluation, the allegation that the material submitted included those that were published in disreputable or questionable journals. We are also particularly concerned that the allegations of plagiarism and publications in disreputable or questionable journals which are referred to sometimes as predatory journals have not been investigated in view of the comments of the second evaluator Dr. K. Jothi Sivagnanam, Professor and Head, Department of Economics, University of Madras who has made the following overall comment about the publications of the 12th Respondent.

"My overall comment about the publications of the candidate is as follows:

Being the faculty member of one of the prominent and oldest University , the publications of the candidate are not in reputed journals and books are of not high standard."

49. The USAB after hearing submissions of all the parties called for information/material referred to in paragraph 11 and 12 of this Order, to facilitate our investigation. However, for reasons best known to them, the 1st to the 11th Respondents have failed to provide most of the material and clarifications required. The information received at the USAB in the letter dated 19th May 2022 from the Vice Chancellor is inadequate and does not respond to many of the issues on which we sought clarification. The conduct of the Respondents prevents the USAB from effectively carrying out its statutory duty to conduct investigations as mandated by section 86(a) of the Universities Act.
50. At the inquiry held before us on the 09/03/2022 Counsel for the 1st to the 11th Respondents informed the Board that the Assessor from Pakistan who evaluated the Publications of the 12th Respondent was not conversant in Tamil language. The publications the said Assessor was to evaluate included those written in Tamil Language. We note that all of the books (nine in number) submitted under section 3.1.1 are written in Tamil Language. We note that the Appellant alleges that some of them included plagiarized material.
51. The Counsel stated that a translated detailed summary of the publications were provided to the said Assessor. If the Assessor is not conversant with the language of a publication and is provided a "summary" translation of such publication for assessment in, there is an obvious flaw in the process. Counsel for the Respondents indicated that one of the evaluators appointed early in the process had declined the appointment as the evaluator was not conversant with the Tamil Language.

52. We also find that submission of detailed summary of translated publications for evaluation is not permitted in terms of the relevant Circulars.
53. We note that we are not qualified to assess whether there is plagiarism. Such an assessment should be done by a subject expert. The Appellant in his complaints referred to above has provided detailed information relating to the alleged plagiarized material in the document marked A18 annexed to his counter affidavit. A subject expert would be able to inquire into it and report on the veracity of these allegations. Similarly, the allegations relating to publications in predatory journals should be inquired by a subject expert and we do not make any conclusion on this matter, although an examination of the material submitted by the Appellant indicates that some of the articles evaluated appear to have been published in journals of questionable value which are termed "predatory journals".
54. The Appellant has drawn our attention to the UGC Circular No 11/2019 dated 08/11/2019. This Circular deals with Predatory Publications, plagiarism and publications in indexed journals, referred and non-referred journals and online journals. Even though this Circular did not apply at the date of the promotion of the 12th Respondent it reflects the importance of the matters complained of in this Appeal and referred to in the Circular. Irrespective of the existence of the circular we would expect any self-respecting University to ensure that its academics do not engage in plagiarism much less submit publications which include plagiarised material to be evaluated for promotions. In the letter dated 19/05/2022 referred to above sent by the Vice Chancellor to USAB, the 1st Respondent in principle refers to existing policy of the University regarding plagiarism and states that the University of Jaffna has the obligation to follow the policies and by-laws to ensure academic quality by excluding predatory journals in the

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evaluation process and that therefore academic staff should follow the existing policies regarding recognised journals while they submit their applications.

55. In response to as to what the University's policy regarding plagiarism, Vice Chancellor provided the university Policies and By-Laws to ensure academic quality by excluding predatory journals in the evaluation process.

Section 9 of the "Code of Practise on Academic Accountability for academics in Sri Lankan University System" was published by Quality Assurance and Accreditation Council, UGC in March 2012. (A2 Annexure II, dated March

2012) ii. Section 1, 1.1 and 1.5 of "A Policy document on Academic Accountability which was published by the Internal Quality Assurance Unit (IQAU) of the

University of Jaffna. (A3 Annexure III, dated December 2015) iii. Section 3 of by-Law for Scholarly Publications of University of Jaffna. (A4

Annexure IV, enforced on 09th June 2021) iv. Senate Memo:
S/453/04/ACA/(i) regarding Publication Ethics for the
Academic staff. (A5 Annexure V, 10th Mar 2021)

56. In the circumstances, the academic staff should follow the existing policies regarding recognised journals while they submit their publications. We further note that even in the light of all the allegations regarding the 12th Respondents publications, the Respondents have not claimed that the publications of the 12th Respondent fulfil the above policy of the University of Jaffna.
57. The Appointment of an Assessor who is not conversant in Tamil Language when the publications he was required to evaluate included those published in the Tamil Language is a matter of concern. The whole object behind an appointment of an Assessor to evaluate the publications is defeated when such Assessor does not understand the language in which some of the articles/publications to be assessed were published.
58. We further note that Professor Dr. K Jothi Sivagnanam in his covering letter dated 27/1/2017(R6) in the evaluation of the contributions of the 12th Respondent , has inter-alia, stated that-

"My overall comment about the publications of the candidate is as follows:

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Being the faculty member of one of the prominent and oldest University , the publications of the candidate are not in reputed journals and books are of not high standard."

(VIDE R6)

59. We have carefully considered the aforesaid comment by Prof. Jothi Sivagnanam and of the view that considering the aforesaid serious statement from the subject expert appointed by the Senate, the University should have appointed a well qualified subject expert in the field. The third evaluator appointed from Pakistan, who is not conversant in the Tamil Language is by any standard not capable of evaluating Tamil Medium Publications.
60. The relevant circulars are Circular No 916 dated 30/09/2009 and Establishment Circular Letter No 04/2010 and these are marked R2 and R3. The Vice Chancellor of the 1st Respondent University in response to our directive (calling for information as evidenced by proceedings dated 09/03/2022) in his letter dated 19/05/2022, inter-alia, states that-

'Selection Committee went through the documents and the marks allocated by the Senate Panel and Experts as per the marking scheme and observed the deficiencies and marks were allocated with the adjustments. After the adjustments the Selection Committee note that the candidate satisfied the condition stipulated in the column 4 of the marking scheme for promotion to the Post of Professor. Hence, the Selection Committee recommended DR S. Santhirasegaram be promoted to the Post of Professor in Economics"

61. We also note that it is not clear whether the selection committee has been informed that the third evaluator was not conversant with the Tamil Language, the language of some of the publications he was evaluating. We also note that the Competent Authority of the University of Jaffna on 24.5.2019 in the letter R12 has assured the UGC as follows.

"Action is being taken to get the authenticity of the Doctoral Degree obtained by Dr. S. Santhirasegaram (12th Respondent) from the Huazhong University of Science and Technology (HUST), Wuhum, China and after getting the reply from HUST, I will submit the evidence on the authenticity of the doctoral degree obtained by him." (sic)

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No material has been placed before us as to whether the then Competent Authority, Prof. K. Kandasamy had followed up on this assurance, communicated with the Huazhong University of Science and Technology and provided the UGC with evidence on the authenticity of the doctoral degree obtained by the 12th Respondent from the Huazhong University of Science and Technology.

62. The Universities Act prescribes the objects of the University Grants Commission to include the maintenance of academic standards in Higher Educational Institutions and the regulation of the administration of the Higher Educational Institutions. The Universities Act has conferred on the University Grants Commission power to formulate schemes of recruitments and procedure for appointment of staff of the Higher Educational Institutions. The said Act has granted the power to the University Grants Commission to investigate or cause investigation into academic financial or general administration and to take remedial measures. In all the circumstances of this appeal we decide the following:-

The University Grants Commission should cause further investigation by an independent panel whether the examiner, Professor Hazoor Muhammad Sabir was an appropriate person to have been appointed as the third external expert in terms of Commission Circular No. 916 dated 30th September 2009 as amended by Establishment Circular Letter No. 04/2010 dated March 19, 2020 to evaluate the 12th Respondent's contribution to research and creative work (sections 2 and 3.1 of

the marking scheme in an Annex 1 substituted to Commission Circular No. 916 by Establishment Circular Letter No. 04/2010) when the two external experts appointed were unable to reach consensus relating to the wide variation in marks assigned by them and request the panel to report to the University Grants Commission and to the Council of the University of Jaffna of the results of such investigation and their recommendations thereon.

- (b) The University Grants Commission should appoint a screening committee of a minimum of two subject experts conversant in the Tamil Language with at least one member competent to identify predatory journals. The mandate and main task of the screening committee shall be to check whether each publication claimed by 12th Respondent under Section 2 (publications) and Section 3.1 of the Marking Scheme (Annex-I) substituted to Commission Circular 916 (R2) by Establishment Circular Letter No. 04/2010 (R3) for the promotion to the post of Professor in Economics

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is genuine and authentic, is
free of plagiarism,

- (iii) is not published in a predatory journal or by predatory publisher,
(iv) is published in a reputed journal or by a reputed publisher.

and to provide a report to the University Grant Commission and to the Council of the University of Jaffna on the results of such investigation and their recommendations thereon.

- (c) The Council of University of Jaffna to consider the reports and recommendations referred to in (a) and (b) above and to inform the University Grants Commission of action, if any, taken in consequence of such reports.

63. Finally, as to the severe warning issued to the Appellant by the university we have come to the following findings after our investigations.

64. The Appellant was entitled to write the letter dated 23/04/2019 regarding the alleged irregularities in the process leading to the Promotion of the 12th Respondent and bring it to the knowledge of the Chairperson of the UGC. At that time, the Appellant had no employer-employee relationship with the 1st Respondent University. However, after the appointment of the Appellant as a Senior Lecturer the Appellant ordinarily ought not to have written or been in direct communication with the UGC in

respect of internal affairs of the 1st Respondent University. If the Appellant had a grievance or complaint, ordinarily he should have communicated the grievance through proper channels.

65. Nevertheless, R14 and A8 where the 1st Respondent University has issued a severe warning against the Appellant even prior to calling for any explanation from the Appellant is contrary to law. The 1st Respondent has not given an opportunity to the Appellant to explain himself. In other words, the Appellant had not been heard in defence prior the issuance of the "severe warning" as contained in A8 and as evidenced by R14. This is a breach of rules of natural justice. In the circumstances we hold that the aforesaid severe warning issued to the Appellant by A8 and the decision to issue a severe warning as contained in R14 is contrary to law.

66. We have no jurisdiction and therefore we are unable to consider any further matters or investigate any further in this Appeal/Application with regard to prayers (c), (d) and (e) of the

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prayer to the Petition. The issue of any interim order as prayed for in prayer (b) does not arise and is in any event beyond our jurisdiction.

67. All the other reliefs and orders prayed for by the Appellant in other communications too cannot be granted by the USAB due to lack of jurisdiction.

THE DECISION

In the circumstances, after our investigations into the matter, we find that-

- (A) the irregularities referred to in paragraphs 51, 52, 57, 58 and 65 of this Order have taken place;
- (B) the 1st Respondent has not given an opportunity to the Appellant to explain himself prior to issuing the severe warning referred to in the document annexed to the appeal of the Appellant marked A8. In other words, the Appellant had not been heard in defence prior the issuance of the "severe warning" as contained in the said A8 and as evidenced by the document annexed to the answer of the 1 to 11 Respondents as R14. This is a breach of rules of natural justice. In the circumstances we hold that the severe warning issued to the Appellant by the said document marked A8 and the decision to issue a severe warning as contained in the said document marked R14 are contrary to law and should be withdrawn;

- (C) The University Grants Commission should appoint an independent panel having the necessary expertise to investigate and report to the University Grants Commission and to the Council of the University of Jaffna whether the examiner, Professor Hazoor Muhammad Sabir was an appropriate person to be appointed as the third external expert in terms of Commission Circular No. 916 dated 30th September 2009 as amended by Establishment Circular Letter No. 04/2010 dated March 19, 2020 to evaluate the 12th Respondent's contribution to research and creative work (sections 2 and 3.1 of the marking scheme in an Annex 1 substituted to Commission Circular No. 916 by Establishment Circular Letter No. 04/2010) upon the two external experts appointed being unable to reach consensus relating to the wide variation in marks assigned by them.

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- (D) The University Grants Commission should appoint a screening committee of a minimum of two subject experts conversant in the Tamil Language with at least one member competent to identify predatory journals with a mandate to check whether each publication claimed by 12th Respondent under Section 2 (publications) and Section 3.1 of the Marking Scheme (Annex-I) substituted to Commission Circular 916 (R2) by Establishment Circular Letter No. 04/2010 (R3) for the promotion to the post of Professor in Economics

is genuine and authentic, is free of plagiarism,

(iii) is not published in a predatory journal or by predatory publisher, is published in a reputed journal or by a reputed publisher.

and to provide a report to the University Grant Commission and to the Council of the University of Jaffna on the results of such investigation and their recommendations thereon.

- (E) The Council of University of Jaffna to consider the reports and recommendations referred to in (C) and (D) above and to inform the University Grants Commission of the action, if any, taken in consequence of such reports.

The Secretary is directed to convey this decision forthwith to-

i) the 1st Respondent University; and ii) the Vice Chancellor of the 1st Respondent University; iii) the Chairman of the University Grants Commission; and iv) the Appellant.

RELIEF

In the circumstances, after conducting investigations under section 86(a) we have decided to convey our decision in terms of section 86(d) of the Universities Act (as amended) to —

- a) the 1st Respondent University; and
- b) the Vice Chancellor of the 1st Respondent University;
- c) the Chairman of the University Grants Commission; and
- d) the Appellant.

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Mr. Maithri Wickremesinghe P.C. Chairman/ USAB	Snr. Prof. W.G.D.Dharmaratna Vice Chairman/ USAB	Mr. Sugath Caldera, Attorney-at-Law Member/ USAB
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