

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Monday, the 10th day of October 2022 / 18th Aswina, 1944
WP(C) NO. 31506 OF 2022(S)

PETITIONER:

DR.NAVEEN PRAKASH NAUTIYAL, AGED 39 YEARS,
EDUCATIONIST, NEAR NAGAR PALIKA, SRINAGAR GARHWAL,
DISTRICT-PAURI GARHWAL, UTTARAKHAND- 246 174.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, MINISTRY OF EDUCATION (EARLIER MINISTRY OF HUMAN RESOURCES DEVELOPMENT) DEPARTMENT OF HIGHER EDUCATION, SHASTRI BHAVAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI- 110 001.
2. THE CENTRAL UNIVERSITY OF KERALA, REPRESENTED BY ITS REGISTRAR, TEJASWINI HILLS, PERIYE (PO), KASARAGOD, KERALA- 671 316.
3. PROF.H. VENKATESHWARLU, AGED 63 YEARS, VICE CHANCELLOR, CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE (PO), KASARAGOD, KERALA- 671 316.
4. UNIVERSITY GRANTS COMMISSION (UGC), BAHADUR SHAH ZAFAR MARG, NEW DELHI-110 002, REPRESENTED BY ITS CHAIRMAN.
5. THE CHANCELLOR, CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE (PO), KASARAGOD, KERALA - 671 316.
6. SEARCH CUM SELECTION COMMITTEE, CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE (PO), KASARAGOD, KERALA-671 316, REPRESENTED BY ITS CONVENOR DR.ASHOK GAJAMAN MODAK, RESIDING AT 101 KINGSTON B, HIGH STREET NEAR D MART, HIRANANDANI GARDEN, POWAI MUMBAI -400 076.
7. THE VISITOR-CENTRAL UNIVERSITY OF KERALA, CENTRAL UNIVERSITY OF KERALA, TEJASWINI HILLS, PERIYE (PO), KASARAGOD, KERALA - 671 316.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to restrain the 3rd respondent from taking any policy or administrative decision of the 2nd respondent University pending disposal of this writ petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. JAYASREE K.P. & JOHN JOSEPH, Advocates for the petitioner, ADDL. CENTRAL GOVT.STANDING COUNSEL for R1 and of SRI.T. RAMPRASAD UNNI, STANDING COUNSEL for R2 & R6, the court passed the following:

P.T.O.

S.Manikumar, C.J.

&

Shaji P.Chaly, J.

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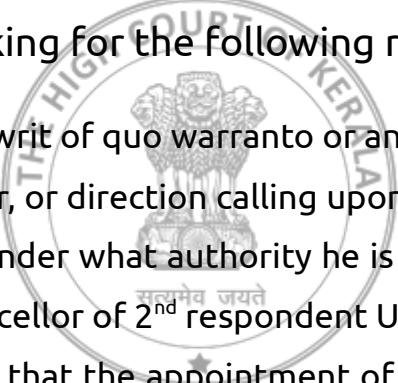
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Dated this the 10th day of October, 2022

ORDER

S.Manikumar, C.J.

Instant public interest writ petition is filed by one Dr.Naveen Prakash Nautiyal, claiming himself to be an educationalist, seeking for the following reliefs:

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- “(i) To issue a writ of quo warranto or any other appropriate writ, order, or direction calling upon the 3rd respondent to show under what authority he is holding the post of Vice Chancellor of 2nd respondent University.
- (ii) To declare that the appointment of the 3rd respondent to the post of Vice Chancellor is contrary to the Provisions of UGC Regulations, Central Universities Act, 2009 and its Statutes.
- (iii) To issue a writ of certiorari any other appropriate writ, direction or order to call for the records leading to the issuance of Exhibit P8, P9, P10, P11, and P12 and quash the same.”

2. When the matter came up for admission, Ms.K.P.Jayasree, learned counsel for the petitioner submitted

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that the relief to issue a writ of certiorari sought for in prayer No.3 is given up. Submission of the learned counsel is placed on record.

3. Inviting the attention of this court to section 11 of the Central Universities Act, 2009 and the second schedule to section 27, the Statutes of the University, learned counsel for the petitioner submitted that Vice Chancellor of the Central University shall be appointed by the Visitor, in the manner as provided therefore in the Statutes.

4. Learned counsel for the petitioner further submitted that as per Exhibit P3 notification dated 07.06.2019 of the Joint Secretary (CU), Ministry of Human Resource Development, Department of Higher Education, New Delhi, a selection committee was constituted to send a panel for appointment to the office of Vice Chancellor of the Central University of Kerala. She further submitted that as per Exhibit P1 notification, about 223 candidates applied.

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5. Learned counsel for the petitioner further submitted that as per Exhibit P5, the search-cum-selection committee shortlisted 16 candidates and after further scrutiny, as per Exhibit P6, recommended a panel of 5 persons for appointment to the office of Vice Chancellor of Central University of Kerala subject to clearance.

6. Thereafter, a summary note as per Exhibit P7 seemed to have been submitted to the Visitor, stating that there was no suitable candidate in the panel submitted by the search-cum-selection committee.

7. Inviting the attention of this court to Exhibit P8, learned counsel for the petitioner further submitted that Visitor of the University merely accepted the recommendation of Ministry of Human Resource Development, Department of Higher Education, and thereafter, the Ministry, by Exhibit P9, directed a fresh panel of five eminent academicians for consideration, which is later on sent under Exhibit P11.

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8. She further submitted that out of the fresh panel sent by the search-cum-selection committee, respondent No.3, Prof. H.Venkateshwarlu, has been appointed as the Vice Chancellor of Central University of Kerala as per Statute 2 of the Central Universities Act, 2009, for a period of five years.

9. The main ground of challenge as regards the appointment of the 3rd respondent as the Vice Chancellor of the Central University of Kerala is that the Ministry of Human Resource Development, Department of Higher Education, respondent No.1, has no role to say that in the panel of candidates sent by the search-cum-selection committee, that there was no suitable candidate and consequently, to recommend to the Visitor of the University for rejection of the panel submitted by the search-cum-selection committee and consequently, the committee recommend a fresh panel of five eminent academicians.

10. In support of the above contentions, learned counsel for the petitioner submitted that if the Visitor is not satisfied

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by the recommendation, then as per statute 2 of the Statutes of the University, the Visitor shall only call for an extended fresh panel and he cannot act on the recommendations of the Ministry of Human Resource Development, Department of Higher Education, respondent No.1, and in such circumstances, the same would be in violation of the Statute 2 of the Statutes of the University.

11. Statute 2 of the Statutes of the University, relied on by the learned counsel for the petitioner, is reproduced:

"2. Vice-Chancellor.-(1) The Vice-Chancellor shall be appointed by the Visitor from out of a panel recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve any of the persons included in the panel, he may call for an extended fresh panel.

(2) The Committee referred to in clause (1) shall consist of five persons, out of whom three shall be nominated by the Executive Council and two by the Visitor, and one of the nominees of the Visitor shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or a College or an Institution maintained by the University or a member of any authority of the University.

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(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) Notwithstanding anything contained in clause (4), the Visitor may, at any time after the Vice-Chancellor has entered upon his office, by order in writing, remove the Vice-Chancellor from office on grounds of incapacity, misconduct or violation of statutory provisions:

Provided that no such order shall be made by the Visitor unless the Vice-Chancellor has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided further that the Visitor shall consult the Chancellor also before making such order:

Provided also that the Visitor may, at any time before making such order, place the Vice-Chancellor under suspension, pending enquiry.

(6) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:-

(i) The Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no

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charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(ii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University, or a College or an Institution maintained by the University, or of any other University or any College or Institution maintained by or admitted to the privileges of, such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iii) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(iv) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(v) In addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year

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of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

(7) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or the existing Vice-Chancellor resumes the duties of his office, as the case may be."

12. As per the statute, Vice Chancellor shall be appointed by the Visitor from out of the panel recommended by the search-cum-selection committee, constituted as per clause (2). If the Visitor does not approve any of the persons included in the panel, he may call for an extended fresh panel.

13. Apart from the above, learned counsel for the petitioner submitted that after Exhibit P8, approval of paragraph No.6 of the summary note at page No.2 of Exhibit P7 dated 15.10.2019 and pursuant to Exhibit P9 dated 05.11.2019, a direction from the Under Secretary to the Government of

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India, Ministry of Human Resource Development, Department of Higher Education, New Delhi, a fresh panel of 5 names were sent vide Exhibit P11 dated 20.01.2020, out of which, Prof. H. Venkateshwarlu, was appointed as the Vice Chancellor of Central University of Kerala as per Statute 2 of the Central Universities Act, 2009, for a period of five years.

14. According to the learned counsel for the petitioner, the five names were not chosen by the search-cum-selection committee, while the list was shortlisted and in the above said circumstances, there is a violation of statute No.2 of the Statutes of the University and in such circumstances, a writ of quo warranto is maintainable, questioning the authority of the 3rd respondent to hold the office of the Vice Chancellor of the Central University of Kerala.

15. Considering the pleadings and the material on record, we are inclined to order notice to the respondents.

16. Mr. T. Ramprasad Unni, learned counsel takes notice for the Central University of Kerala represented by its

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Registrar, Kasaragod and Search cum Selection Committee,
Central University of Kerala, respondents 2 and 6.

17. Issue notice to respondent No.3 returnable in three weeks.

18. It is made clear that the notice issued to the 3rd respondent need not be construed as a notice issued for a writ of quo warranto.

19. Respondents are directed to file respective counter affidavits within four weeks.

Post on 14.11.2022.



Sd/-

**S.Manikumar
Chief Justice**

Sd/-

**Shaji P.Chaly
Judge**

vpv

APPENDIX OF WP(C) 31506/2022

Exhibit P1	A TRUE COPY OF THE NOTIFICATION FOR APPOINTMENT OF VICE CHANCELLOR OF THE CENTRAL UNIVERSITY OF KERALA, KASARAGOD ALONG WITH THE FORMAT OF THE APPLICATION.
Exhibit P3	A TRUE COPY OF THE LETTER DATED 07.06.2019 ISSUED TO THE CONVENOR OF THE 6TH RESPONDENT COMMITTEE FROM THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT, DEPARTMENT OF HIGHER EDUCATION.
Exhibit P5	A TRUE COPY OF THE MINUTES OF THE 2ND MEETING OF THE 6TH RESPONDENT COMMITTEE HELD ON 29TH AND 30TH AUGUST 2019 ALONG WITH THE LIST OF SHORTLISTED CANDIDATES.
Exhibit P6	A TRUE COPY OF THE MINUTES OF THE FINAL MEETING OF THE 6TH RESPONDENT COMMITTEE HELD ON 09TH SEPTEMBER 2019 TOGETHER WITH THE LETTER ISSUED BY THE CONVENOR OF THE 6TH RESPONDENT COMMITTEE TO THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT.
Exhibit P7	A TRUE COPY OF THE SUMMARY NOTE FOR THE PRESIDENT, THE VISITOR OF THE 2ND RESPONDENT UNIVERSITY, 7TH RESPONDENT HEREIN DATED 15.10.2019 ISSUED FROM THE MINISTRY ALONG WITH THE 360-DEGREE ASSESSMENT REPORT OF SHORTLISTED CANDIDATES FOR THE POST OF VICE CHANCELLOR, CENTRAL UNIVERSITY OF KERALA.
Exhibit P8	A TRUE COPY OF THE COMMUNICATION ISSUED FROM THE OFFICE OF THE 7TH RESPONDENT DATED 30.10.2019 TO THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT.
Exhibit P9	A TRUE COPY OF THE LETTER DATED 05.11.2019 ISSUED FROM THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT TO THE CONVENOR OF THE 6TH RESPONDENT COMMITTEE.
Exhibit P10	A TRUE COPY OF THE LIST OF SHORTLISTED CANDIDATES SELECTED FOR PERSONAL INTERACTION ON 20.01.2020 FOR THE POST OF VICE-CHANCELLOR IN 2ND RESPONDENT UNIVERSITY.
Exhibit P11	A TRUE COPY OF THE MINUTES OF THE MEETING OF THE 6TH RESPONDENT COMMITTEE HELD ON 20.01.2020 ALONG WITH THE COVERING LETTER AND THE LIST OF SELECTED 5 CANDIDATES.
Exhibit P12	A TRUE COPY OF THE ORDER DATED 13.08.2020 APPOINTING THE 3RD RESPONDENT AS VICE CHANCELLOR OF 2ND RESPONDENT UNIVERSITY.