



2025:KER:34083

W.P (C) No.42527/2024

-1-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 19TH DAY OF MAY 2025 / 29TH VAISAKHA, 1947

WP(C) NO. 42527 OF 2024

PETITIONER/S:

STATE OF KERALA,
REPRESENTED BY THE JOINT SECRETARY TO THE GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.

BY ADVS.
GOVERNMENT PLEADER
PUBLIC PROSECUTOR
SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SHRI.N.MANOJ KUMAR, STATE ATTORNEY
SHRI.V.MANU, SPL.GOV'T. PLEADER TO A.G.

RESPONDENT/S:

- 1 THE CHANCELLOR,
APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY,
KERALA RAJ BHAVAN, THIRUVANANTHAPURAM, PIN - 695099
- 2 APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, CET CAMPUS,
THIRUVANANTHAPURAM, PIN - 695016
- 3 DR. K. SIVAPRASAD,
PROFESSOR, DEPARTMENT OF SHIP TECHNOLOGY,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
THRIKKAKARA, KOCHI, PIN - 682022.



2025:KER:34083

W.P (C) No.42527/2024

-2-

BY ADVS.

S.PRASANTH, SC, CHANCELLOR OF UNIVERSITIES OF KERALA

K.R.GANESH

NISHA GEORGE

P.SREEKUMAR (SR.)

SILPA SREEKUMAR

GEORGE POONTHOTTAM (SR.)

KAVYA VARMA M. M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-11-2024, THE COURT ON 19-05-2025 DELIVERED THE FOLLOWING:**

**JUDGMENT****(W.P.(C) No. 42527/2024)**

This writ petition has been filed by the State of Kerala challenging Ext.P9 notification bearing No.GS6-2838/2022 (1) dated 27.11.2024 issued by the 1st respondent - Chancellor of the APJ Abdul Kalam Technological University (hereinafter referred to as the 'University') appointing the 3rd respondent to exercise the powers and perform the duties of the Vice-Chancellor of the University in terms of the provisions contained in Section 13 (7) of the APJ Abdul Kalam Technological University Act, 2015 (hereinafter referred to as the '2015 Act') pending the appointment of a Vice-Chancellor on a regular basis.

The facts (in brief):-

2. The appointment of one Dr. Rajasree M.S., as Vice-Chancellor of the University was declared illegal by the Supreme Court through judgment dated 21.10.2022. The judgment is reported as ***Dr. Sreejith v. Dr. Rajasree, 2022 (6) KLT 147 (SC)***. As a consequence of the said declaration, there occurred a vacancy in the office of the Vice-Chancellor of the University, necessitating the appointment of a temporary Vice-Chancellor in terms of the provisions contained in sub-section (7) of Section 13 of the 2015 Act. On 22.10.2022, the Principal Secretary, Higher Education Department addressed



a letter to the Principal Secretary to the 1st respondent recommending the name of Dr. Saji Gopinath, Vice-Chancellor, Digital University of Kerala to exercise the powers and perform the duties of the office of the Vice-Chancellor of the University pending the regular selection of a Vice-Chancellor. However, this proposal was not accepted by the 1st respondent, prompting the Government to recommend the name of the Principal Secretary to the Government, Higher Education Department, to act as Vice-Chancellor of the University pending appointment of a Vice-Chancellor on a regular basis. However, the 1st respondent proceeded to issue Ext.P1 notification bearing No.GS6-2838/2022 dated 3.11.2022 appointing one Prof. (Dr.) Ciza Thomas to exercise the powers and functions of the Vice-Chancellor of the University until further orders. This notification, dated 3.11.2022, was challenged by the State by filing W.P.(C)No.35656/2022. A learned single Judge of this Court, through judgment dated 29.11.2022, dismissed the writ petition. The State carried the matter to the Division Bench by filing an *intra* Court appeal as W.A.No.1847/2022. The Division Bench *inter alia* found that in terms of sub-section (7) of Section 13 of the 2015 Act, the power to recommend names of persons who could be appointed to exercise the powers and perform the duties of Vice-Chancellor pending a regular appointment was with the Government. However, it was held that



notwithstanding any contrary provision in sub-section (7) of Section 13, only persons who are qualified in terms of the University Grants Commission (hereinafter referred to as 'UGC') Regulations¹ could be so appointed. The judgment of the Division Bench in W.A.No.1847/2022 is on record as Ext.P3. That judgment has become final.

3. On 21.2.2023, the Government forwarded a panel containing the names of three persons who could be considered for appointment as a temporary Vice-Chancellor (till a regular Vice-Chancellor was appointed for the University) to the 1st respondent. In response to this letter dated 21.2.2023, the 1st respondent required a clarification from the Government as to whether it was standing by its earlier recommendation dated 22.10.2022 recommending the name of Dr. Saji Gopinath for appointment as temporary Vice-Chancellor or whether it was standing by its recommendation as contained in the letter issued on 21.2.2023, following Ext.P3 judgment. In response, the Government forwarded a letter dated 29.3.2023 containing a reconstituted panel of names for consideration of the Vice-Chancellor, also including the name of Dr. Saji Gopinath. Following such recommendation, the 1st respondent issued a notification dated 31.3.2023 appointing Dr. Saji Gopinath to exercise the powers and perform the duties of the Vice-

¹ The University Grants Commission Regulation on Minimum Qualification for appointment of Teachers in Universities and Colleges, 2018



Chancellor of the University until a regular Vice-Chancellor was appointed.

4. On 8.4.2024, the Government issued an order, constituting a Search-cum-Selection Committee for the selection of a regular Vice-Chancellor for the University. On 29-07-2024, the Additional Secretary to the Chancellor issued yet another notification constituting another Search Committee for regular appointment to the post of Vice-Chancellor of the University. That notification dated 29-07-2024 has been stayed by this Court by order dated 1.8.2024 in W.P.(C)No.27552/2024.

5. Dr. Saji Gopinath who was appointed, as above, to exercise the powers and perform the duties of the Vice-Chancellor of the University pending selection of a regular Vice-Chancellor informed the Government that his extraordinary leave was ending on 27.10.2024 and requested that he may be relieved of his duties of Vice-Chancellor of the University with effect from 24.10.2024 to join his parent department namely, the Indian Institute of Management, Kozhikode.

6. The Government, therefore, issued Ext.P4 communication dated 9.10.2024 for consideration of the 1st respondent. However, by Ext.P5 communication dated 24.10.2024, it was informed that Ext.P4 communication was an 'extra constitutional interference' in the exercise of the statutory discretion by the 1st respondent as held in the judgment dated



30.11.2023 of the Supreme Court in Civil Appeal No.7700/2023 (Ext.P6). The Government through Ext.P7 communication dated 25.10.2024 informed the 1st respondent that Ext.P6 judgment of the Supreme Court may not apply in the matter of appointment of a person to exercise the powers and perform duties of the Vice-Chancellor of the University as the said judgment was in the context of the provisions contained in the Kannur University Act, 1996 which were not *in pari materia* with the provisions of the 2015 Act. This prompted the 1st respondent to file an application for clarification of the judgment in W.A.No.1847/2022. However, this Court, by Ext.P8 order on I.A.No.1/2024 in W.A.No.1847/2022 refused to make any further clarifications and held that Ext.P3 judgment in W.A.No.1847/2022 was delivered on the basis of the provisions contained in the 2015 Act and no further clarification could be given in the matter. Thereafter, by Ext.P9 notification dated 27.11.2024, the 1st respondent appointed the 3rd respondent to exercise the powers and perform the duties of the Vice-Chancellor of the University in terms of the provisions contained in sub-section (7) of Section 13 of the 2015 Act. It is in the aforesaid factual background that the State is before this Court impugning Ext.P9 notification.

7. Sri. Asok M. Cheriyan, the learned Additional Advocate General, assisted by Sri. V. Manu, the learned Special Government Pleader, would



submit that Ext.P9 notification is illegal and unsustainable in law. It is submitted that Ext.P9 runs counter to the law declared by the Division Bench in the judgment in W.A.No.1847/2022. It is submitted that the 1st respondent could not have, in terms of the provisions contained in sub-section (7) of Section 13 of the 2015 Act appointed any person to exercise the powers and perform the duties of the Vice-Chancellor of the University unless the name was recommended by the Government. It is submitted that Ext.P9 notification appointing the 3rd respondent is liable to be quashed as the 3rd respondent was not a person whose name was recommended by the Government in terms of the provisions contained in sub-section (7) of Section 13 of the 2015 Act. It is submitted that Ext.P6 judgment was rendered in the light of the specific provisions contained in the Kannur University Act, 1996, which are not *in pari materia* to the provisions contained in the 2015 Act. It is submitted that the provisions of the 2015 Act specifically provide for a recommendation to be made by the Government, and such a provision is conspicuously absent in the provisions of the Kannur University Act, 1996, which were interpreted in Ext.P6 judgment.

8. Sri. P. Sreekumar, the learned senior counsel appearing for the 1st respondent on the instructions of Sri. S. Prasanth contends that after Ext.P3 judgment of the Division Bench of this Court in W.A.No.1847/2022, the issue



has been considered by the Supreme Court in **Dr. Sreejith** (*supra*) where after interpreting the provisions of Section 13 of the 2015 Act, the Supreme Court came to the conclusion that notwithstanding any provision to the contrary in the 2015 enactment, the Regulations framed by the University Grants Commission will prevail. It is submitted that Ext.P6 judgment of the Supreme Court also makes it clear that in the exercise of discretion by the 1st respondent, there could be no manner of interference by any other authority. It is thus submitted that Ext.P3 judgment on which reliance is placed by the State to challenge Ext.P9 notification is no longer good law and/or has to be interpreted in terms of the law laid down by the Supreme Court in the judgments referred to above. It is also submitted that, though the UGC regulations do not contemplate the appointment of a Vice-Chancellor on a temporary basis pending selection of a regular Vice-Chancellor, even the appointment of a temporary Vice-Chancellor cannot be made *dehors* the UGC regulations. It is submitted that the findings in Ext.P6 judgment of the Supreme Court would therefore apply even in the matter of appointment of a temporary Vice-Chancellor. It is also pointed out that W.P.(C)No.14137/2025 is pending before this Court, challenging the validity of sub-section (7) of Section 13 of the 2015 Act as being contrary to the provisions of the UGC regulations. Sri.George Poonthottam, the learned senior counsel appearing



for the 3rd respondent on the instructions of Smt.Nisha George reiterates the contentions taken by Sri.P.Sreekumar.

9. Having heard the learned counsel as above, I am of the view that the issue raised in this writ petition is squarely covered in favour of the petitioner by Ext.P3 judgment of the Division Bench of this Court in W.A.No.1847/2022. In Ext.P3 judgment, this Court was specifically dealing with the provisions of sub-section (7) of Section 13 of the 2015 Act. This Court found that, though there are no UGC Regulations governing the appointment of a temporary Vice-Chancellor, the Regulations of the UGC dealing with the appointment of a Vice-Chancellor on a regular basis should be deemed to have been incorporated as part of sub-section (7) of Section 13 of the 2015 Act. However, it was categorically held that the procedure contemplated by sub-section (7) of Section 13 of the 2015 Act, to the extent it is not contrary to the UGC Regulations, must be followed. In other words, it was held that while the process should be initiated by a recommendation by the State Government, as contemplated by sub-section (7) of Section 13 of the 2015 Act, only officers who possess the necessary qualifications as prescribed by the UGC could be recommended. The relevant findings of the Division Bench in Ext.P3 judgment read thus:-



“4. The issue we have to decide falls within the statutory provisions of the Act. At the outset, we must note that there is no UGC Regulation governing the appointment of the Vice-Chancellor temporarily till a regular appointment is made. It is profitable to refer to Section 13(7) of the Act, which reads thus;

“(7) Where the vacancy of Vice-Chancellor arises in any of the following circumstances, the Chancellor may appoint the Vice-Chancellor of any other University or the Pro-Vice-Chancellor of this University or the Secretary to Government, Higher Education Department, recommended by the Government, to be the Vice-Chancellor for a period of not exceeding six months in the aggregate, namely:-

(i) where the committee appointed under subsection (1) is unable to recommend any name within the time-limit specified by the Chancellor;

(ii) where vacancy occurs in the office of the Vice-Chancellor because of death,, resignation or otherwise and it cannot be filled; up conveniently and expeditiously in accordance with the provisions of sub-sections (1) to (5) ;

(iii) where the vacancy in the office of the Vice-Chancellor arises temporarily because of leave, illness or of any other causes;

(iv) where the term of office of the Vice-Chancellor expires;: or

(v) where there is any other emergency:

Provided that the person so appointed shall cease to hold such office on the date on which the Vice-Chancellor resumes office,”



5. Section 13(7) of the Act has three parts. The first part refers to the recommendation, the authority of the Government to recommend names; the second part refers to the nature of the persons, who can be recommended for appointment as a Vice-Chancellor by virtue of their office; the third part refers to the power of the Chancellor to appoint the Vice-Chancellor. The power of the State Government, as referred to under the statutory provisions to recommend names, cannot be doubted inasmuch as that the State has legislative competence under Entry 25 of Concurrent List III of the Constitution of India. The phrase “recommendation” in this context means the authority to initiate the process to make an appointment and choose the candidate. This being a temporary appointment, the field of choice is limited with reference to a certain category of officials.

6. The second part is the most important aspect in this case in relation to the category of officers, who can be suggested for appointment. It is to be noted that the Regulations of the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other measures for the Maintenance of Standards in Higher Education) Regulations, 2010, has been replaced by the Regulations of the University Grants Commission, 2018, viz., UGC Regulations “On Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education, 2018” (for short, “UGC Regulations”), which prescribes the qualifications and eligibility to be appointed as a Vice-Chancellor. The power of UGC is traceable under Entry 66 of List I of the Constitution of India. If the UGC has prescribed any qualification to be appointed as a Vice-Chancellor, any legislation or regulation made by the State would be subject to such UGC Regulation. Therefore, the State Government can only recommend such officers, who possess the necessary qualifications as prescribed by the UGC. The UGC prescription of qualification would be deemed to have been incorporated as part of



Section 13(7) of the Act. Thus, while the Government recommends any name for appointment as Vice-Chancellor, the Government can only recommend the names of candidates, who possess the necessary qualifications as prescribed by UGC. If any of the categories of the officers, as referred to under Section 13(7) of the Act, is not met, their names cannot be recommended to be appointed as the Vice-Chancellor.

7. The second part of Section 13(7) of the Act, as referred to above, has to be understood in light of the prescription of the qualification by the UGC as the same is deemed to have been incorporated as part of legislation being occupied by the UGC Regulation. If the category of persons referred to under 13(7) of the Act is not available for want of qualifications, the statutory provision will not become otiose. The statutory provision, conferring authority on the Government, will survive to appoint any person, who are having prescribed qualifications under UGC, as the UGC Regulations in regard to qualified persons have to be read as part of Section 13(7) of the Act.

8. The third part is related to the authority of the Chancellor to make appointments. Undoubtedly, the Chancellor has been conferred with the power to appoint the persons, who possess the necessary qualifications as prescribed by the UGC, as Vice-Chancellor. The Chancellor, in that process, cannot overlook the authority of the State Government to recommend any qualified name for appointment as Vice-Chancellor. When a statute prescribes a particular mode, be it directory or mandatory, that has to be followed for such an appointment and cannot be disregarded while making such an appointment. We, therefore, are of the view that the procedure that has to be followed must be in accordance with the statutory provisions as referred to under Section 13(7) of the Act.”

Thus, it is clear that only persons who qualify in terms of the UGC Regulations can be appointed as a Vice-Chancellor, even on a temporary



basis, under sub-section (7) of Section 13 of the 2015 Act. However, the procedure for such an appointment must be in the manner contemplated by sub-section 7 of Section 13 of the 2015 Act and must commence with the Government's recommendation.

10. Coming to the contention of the learned senior counsel appearing for the Chancellor that the law laid down in Ext.P3 judgment is no longer good law in view of the findings of the Supreme Court in Ext.P6 judgment, I am of the view that the findings in Ext.P6 judgment relate to specific provisions of the Kannur University Act, 1996. Section 10 of the Kannur University Act, 1996, that was the specific provision considered by the Supreme Court in Ext.P6 judgment, reads thus:-

“Section 10. The vice-Chancellor:

(1) The vice-chancellor shall be appointed by the Chancellor on the recommendation of a committee appointed by him for the purpose (hereinafter referred to as the committee).

(2) The committee shall consist of three members, one elected by the Senate, one nominated by the Chairman of the University Grants Commission and the third nominated by the chancellor.

(3) The Chancellor shall appoint one of the members of the committee to be its convener.

(4) The committee shall make its recommendation within a period of three months of its appointment or within such further



period, not exceeding one month, as the Chancellor may specify in this behalf.

(5) In case the committee unanimously recommends the name of only one person, the Chancellor shall appoint that person to be the Vice-Chancellor.

(6) In the case the committee is unable to recommend a name unanimously, it may submit a panel of three names to the Chancellor within the period specified in or under sub-section (4) and the Chancellor shall appoint one of the persons in the panel to be the Vice-chancellor.

(7) In case the committee fails to make a unanimous recommendation as provided in sub-section (5) or to submit a panel as provided in sub-section (6), each member of the committee may submit a panel of three names to the chancellor and the Vice-Chancellor shall be appointed from among the persons mentioned in the panels.

(8) Non-submission of a panel under sub-section (7) by any member of the committee shall not invalidate the appointment of the Vice-Chancellor.

(9) No person who is more than sixty years of age shall be appointed as Vice-chancellor.

(10) The Vice-Chancellor shall, hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment. Provided that a person shall not be appointed as Vice-Chancellor for more than two terms.

(11) The remuneration payable to and the other conditions of service of, the Vice-chancellor shall be such as may be determined by the Chancellor in accordance with the guidelines issued by the University Grants Commission in this regard, from time to time.



(12) The Vice-Chancellor shall be the principal academic and executive officer of the University.

(13) The Vice-chancellor shall be the Chairman of the Senate, the Syndicate, the Academic council and the Finance Committee and shall be entitled to be present at and to address any meeting of any authority of the University, but shall not be entitled to vote thereat unless he is a member of the authority concerned.

(14) In the event of equality of votes at any meeting of the Senate, the Syndicate or the Academic Council or of any other authority, at which the Vice-chancellor is the Chairman, he shall have and exercise a casting vote.”

It is in this context of the aforesaid provision that the Supreme Court, while considering the power of the Chancellor, held that the Chancellor shall exercise the jurisdiction vested in him as contemplated by the Statute. In other words, the Supreme Court made a distinction between the actions of the Chancellor in his capacity as the Governor of the State and the powers exercisable by him by virtue of any specific provision in any Statute. It was held in that context that it cannot be said that all the powers exercisable by the Chancellor can be exercised only upon the aid and advice of the Council of Ministers. The relevant observations as contained in paragraphs 75 and 76 of Ext.P6 judgment read thus:-

“75. In Hardwari Lal, Rohtak v. G.D. Tapase, Chandigarh, AIR 1982 P&H 439 (Full Bench) the powers of the Governor with respect to the appointment/removal of the Vice-Chancellor of



Maharshi Dayanand University, Rohtak under the Maharshi Dayanand University (Amendment) Act, 1980 were considered wherein a direction was sought with regard to the renewal of the term of the Vice-Chancellor of the said University. Certain promises had been made in connection with the same while making such appointment. The Court held that as the Governor was the ex officio Chancellor of the University, therefore, by virtue of his office, he was not bound to act under the aid and advice of the Council of Ministers. Under Article 154 of the Constitution, the executive powers of the State are vested in the Governor which may be exercised by him either directly, or through officers subordinate to him, in accordance with the provisions of the Constitution. Article 161 confers upon the Governor, a large number of powers including the grant of pardon, reprieves, respites or remissions of punishment, etc. Such executive power can be exercised by him only in accordance with the aid and advice of the Council of Ministers. Article 162 states that the executive power of the State shall extend to all such matters with respect to which the Legislature of the State has the power to make laws. Therefore, the said provision widens the powers of the Governor. Article 166(3) of the Constitution further bestows upon the Governor the power to make rules for more convenient transactions of business of the Government of the State and also for the purpose of allocating among the Ministers of State such business. There are several ways by which, a power may be conferred upon the Governor, or qua the Governor, which will enable him to exercise the said power by virtue of his office as Governor. Therefore, there can be no gainsaying that all the powers that are exercisable by the Governor by virtue of his office can be exercised only in accordance with the aid and advice of the Council of Ministers except insofar as the Constitution expressly, or perhaps by necessary implication, provides otherwise.

76. Thus, in such a situation, the statute makes a clear-cut distinction between two distinct authorities, namely, the



Chancellor and the State Government. When the legislature intentionally makes such a distinction, the same must also be interpreted distinctly, and while dealing with the case of the Vice-Chancellor, the Governor, being the Chancellor of the University, acts only in his personal capacity, and therefore, the powers and duties exercised and performed by him under a statute related to the University, as its Chancellor, have absolutely no relation to the exercise and performance of the powers and duties by him while he holds office as the Governor of the State.”

Thereafter, in paragraphs 82 and 83 of Ext.P6 judgment, the Supreme Court held as follows:-

“82. Under the scheme of the Act, 1996 and the statutes, the Chancellor plays a very important role. He is not merely a titular head. In the selection of the Vice-Chancellor, he is the sole judge and his opinion is final in all respects. In reappointing the Vice-Chancellor, the main consideration to prevail upon the Chancellor is the interest of the university.

83. The Chancellor was required to discharge his statutory duties in accordance with law and guided by the dictates of his own judgment and not at the behest of anybody else. Law does not recognise any such extra constitutional interference in the exercise of statutory discretion. Any such interference amounts to dictation from political superior and has been condemned by courts on more than one occasions.”

The observations in Ext.P6 judgment do not lead me to conclude that the power under sub-section (7) of Section 13 of the 2015 Act must be exercised only by the Chancellor when the Statute itself specifically provides for a recommendation to be made by the State Government.



11. Coming to the judgment of the Supreme Court in **Dr. Sreejith** (*supra*), I am of the view that the said judgment only fortifies the view taken by the Division Bench in Ext.P3 judgment. The judgment of the Supreme Court in **Dr. Sreejith** (*supra*) is authority for the proposition that the procedure and qualifications laid down in the UGC Regulations will apply notwithstanding any contrary provision in the State Legislation. The Division Bench in Ext.P3 judgment has, in fact, held that the provisions of the UGC Regulations had to be read into the provisions of sub-section (7) of Section 13 of the 2015 Act and therefore, the contention of the learned senior counsel appearing for the Chancellor that, by virtue of the judgment of the Supreme Court in **Dr. Sreejith** (*supra*), the law laid down in Ext.P3 judgment of the Division Bench no longer holds good is only to be rejected. In the light of the aforesaid findings, it can only be held that the impugned notification is not in accordance with the law.

12. Coming to the reliefs sought in the writ petition, it must be noticed that Ext.P9 is a notification appointing a Vice-Chancellor for the University in terms of the provisions contained in sub-section (7) of Section 13 of the 2015 Act. The importance of the post of Vice-Chancellor in **Gambhirdan K. Gadhvi v. State of Gujarat; (2022) 5 SCC 179**, which was referred to with approval in **Dr. Sreejith** (*supra*). It was held:-



“53. It is to be noted that the post of Vice-Chancellor of the university is a very important post so far as the university is concerned. Being a leader and head of the institution, the Vice-Chancellor of the university has to play very important role. While academic qualifications, administrative experience, research credentials and track record could be considered as basic eligibility requirements, the greater qualities of a Vice-Chancellor would be one who is a true leader and a passionate visionary. A Vice-Chancellor needs to be one who understands and handles the affairs of the university as ethical business and maintains a pellucidity in his conduct towards the betterment of the university as well as the students therein. A Vice-Chancellor should be one who can inspire students and guarantee entry of high quality teachers into the university system. A Vice-Chancellor functions as a bridge between the executive and academic wings of a university as he is the head of both a “teacher” and an “administrator”.

54. We may refer to some of the significant Commission Reports concerning the personality and role of a Vice-Chancellor of a university as under:

54.1. The 1949 Radhakrishnan Commission stated that originally, the Vice-Chancellorship of an Indian university was regarded as an honorary post to be filled by a prominent man in his leisure time. But now the position has changed, there is enough work to justify a full-time appointment and the universities should have full-time paid Vice-Chancellors. While discussing the duties of a Vice-Chancellor, the Commission stated that a Vice-Chancellor must be the chief liaison between the university and the public and must be a keeper of the university's conscience, both setting the highest standard by example and dealing firmly and promptly with indiscipline and malpractice of any kind. He/she must have the strength of character to resist unflinchingly the many forms of pressure. Being a full-time task, it needs an exceptional man (or woman) to undertake it. The Commission



rejected the proposal of selecting the Vice-Chancellor by an external body and recommended that the Chancellor should appoint the Vice-Chancellor upon the recommendation of the executive.

54.2. The 1971 Report of the Committee on Governance of Universities and Colleges by the University Grants Commission chaired by Dr P.B. Gajendragadkar, former Chief Justice of India while reiterating the recommendations and observations made by the aforesaid commissions also stated that the selection of a Vice-Chancellor is the single most important decision that the governing body of the university may be called upon to make. While the Chancellor of a university may be a high dignitary of the State of the Union of India or an eminent scholar or eminent person in public life of the State, the appointment of Vice-Chancellor, being the important functionary of the university is most strategic. The powers of proper maintenance of discipline and a healthy environment for both teachers and students in the university is vested with the Vice-Chancellor along with all the other powers vested in him/her by various Statutes, Ordinances or Regulations. The Commission also stated that appointment of a Vice-Chancellor is made in most of the universities out of a panel of at least three names by the Chancellor in case of State Universities and by the Visitor in case of Central Universities. The panel of names is prepared by a Search Committee constituted in accordance with the provision of the Act/Statute. Since it was difficult to have a uniform system of forming a committee in all the States, the alternatives to constitute the Search Committee were also provided in the Report.

54.3. The 1990 Report of the UGC Committee towards New Educational Management by Professor A. Gnanam (also called as the Gnanam Committee Report, 1990) accentuated the role of a Vice-Chancellor, stating that the Vice-Chancellor should be a person with vision and qualities of academic leadership and with a flair for administration because what the universities need is a



sensitive, efficient, fair and bold administrator. The Vice-Chancellor should be a distinguished educationist from the higher education system having highest level of competence, integrity, morals and self-respect.

54.4. The Ram Lal Parikh Committee 1993 accented that the universities need distinguished and dignified persons as Vice-Chancellors and it is necessary to ensure that they are treated with dignity and regard, which the office merits.

54.5. The University Grants Commission in its handbook titled Governance in Higher Education : Handbook for Vice-Chancellors published in 2019 has penned down the role of Vice-Chancellor of Indian universities having gained a paramount importance in the recent times. In the words of Prof. D.P. Singh, the then Chairman of University Grants Commission and former Director of National Assessment and Accreditation Council ("NAAC"):

"As Chief Executives and Academic Heads of Universities, the Vice-Chancellors are expected to be efficient and effective in terms of:

- (a) Implementation of National Higher Education Policy and programmes,*
- (b) Institutional change in tune with the national reforms package,*
- (c) Quality and innovation enhancement and their sustainability,*
- (d) Productive engagement with 'communities of scholars' from within their universities and from national and international domains,*
- (e) Nurturing of 'Research and Innovation Ecosystem' and translation of deliverables to society and economy,*



(f) Adoption of international best practices of ‘Good Governance’.”

“The Vice-Chancellor has to evolve as the leader of a symphony of orchestra with the attributes of:

- (a) Developing teams and teamwork, building partnerships and collaborations delicately interwoven by collegiality, friendship and intellectual engagement;*
- (b) Devising a strategy and action plan with defined milestones and deliverables;*
- (c) Ensuring primary accountabilities of self and the abovementioned university governing bodies; and*
- (d) Steering an institutional monitoring and evaluation mechanism on university performance built on principles of transparency.”*

55. Discussing the situation in the backdrop of principle of governance as quoted by Chanakya in his Nitishastra — “Yatha Raja Tatha Praja”, the sense of morality must begin from the door of the leader who preaches it.

56. Thus, universities are autonomous and the Vice-Chancellor is the leader of a higher education institution. As per the norm, he/she should be an eminent academician, excellent administrator and also someone who has a high moral stature. The aforesaid reports of the Radhakrishnan Commission, Kothari Commission, Gnanam Committee and Ram Lal Parikh Committee have highlighted the importance of the role of Vice-Chancellor in maintaining the quality and relevance of universities, in addition to its growth and development, keeping in view, the much needed changes from time to time. Further, these committees have also made suggestions and recommendations for identifying the right person for the said position. At this stage, it is correct to say that a Vice-Chancellor is the kingpin of a university's system and a keeper of the university's conscience.”



A reading of the provisions of sub-section (7) of Section 13 of the 2015 Act indicates that the appointment is only for a period of six months. Ext.P9 notification was issued on 27.11.2024, and the term of appointment of the 3rd respondent is said to expire by 27.5.2025. Taking into consideration the above and also taking into consideration the observations of the Supreme Court regarding the importance of the post of Vice-Chancellor in ***Gambhirdan K. Gadhvi (supra)***, I am of the view that this Court need not at present interfere with the appointment of the 3rd respondent as temporary Vice-Chancellor of the University as frequent changes in the person holding that office (even on temporary basis) may not be conducive to the interest of the University and its students. It is settled that the exercise of jurisdiction under Article 226 of the Constitution of India is discretionary. In the light of the above findings, the writ petition will stand disposed of as follows:-

- (i) It is declared that Ext.P9 notification is not sustainable in law for the reason that it is not issued in accordance with the procedure contemplated by Section 13(7) of the 2015 Act. However, this declaration will not have the effect of dislodging the 3rd respondent from office, as the tenure of the 3rd respondent is set to expire by 27.05.2025;



- (ii) The petitioner shall, forthwith, take steps to recommend to the 1st respondent the names of persons possessing the qualifications prescribed (through regulations) by the UGC, who can be appointed as a temporary Vice-Chancellor of the University pending the selection of a Vice-Chancellor on regular basis;
- (iii) The petitioner shall, also simultaneously and if there are no interdicting orders by this Court or the Supreme Court, take steps to fill up the post of Vice-Chancellor of the University in terms of the provisions contained in Section 13 of the 2015 Act on regular basis keeping in mind the provisions of the UGC Regulation on Minimum Qualification for appointment of Teachers in Universities and Colleges, 2018;
- (iv) It is clarified that the UGC Regulation on Minimum Qualification for appointment of Teachers in Universities and Colleges, 2018 will govern the method of appointment of the Vice-Chancellor of the University, notwithstanding any contrary provision in the 2015 Act. In other words, it is clarified that the provisions of Section 13 of the 2015 Act shall apply only to the extent that it is in conformity with the UGC Regulation on Minimum Qualification for appointment of



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Teachers in Universities and Colleges, 2018 both in the matter of qualification for appointment and the procedure for appointment.

Sd/-
GOPINATH P.
JUDGE

acd



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APPENDIX OF WP(C) 42527/2024

PETITIONER EXHIBITS

- Exhibit P1 A TRUE PHOTOCOPY OF THE ORDER NO.GS6
2838/2022 DATED 03.11.2022
- Exhibit P2 A TRUE PHOTOCOPY OF THE JUDGMENT DATED
29.11.2022 IN WRIT PETITION (CIVIL) NO. 35656
OF 2022
- Exhibit P3 A TRUE PHOTOCOPY OF THE JUDGMENT DATED
16.02.2023 IN WRIT APPEAL NO. 1847 OF 2022.
- Exhibit P4 A TRUE PHOTOCOPY OF THE LETTER NO. HEDN-
J3/285/2022-HEDN DATED 09.10.2024 TO THE
ADDITIONAL CHIEF SECRETARY TO THE HONOURABLE
GOVERNOR.
- Exhibit P5 A TRUE PHOTOCOPY OF THE LETTER NO. GS6-
2838/2022 DATED 24TH OCTOBER, 2024.
- Exhibit P6 A TRUE PHOTOCOPY OF THE JUDGMENT DATED
30.11.2023 OF THE HONOURABLE APEX COURT IN
CIVIL APPEAL NO. 7700 OF 2023 IS PRODUCED
HEREWITH AND MARKED AS EXHIBIT P6.
- Exhibit P7 A TRUE PHOTOCOPY OF THE LETTER NO.
J3/285/2022-HEDN-PART(1) DATED 25.10.2024.
- Exhibit P8 A TRUE PHOTOCOPY OF THE ORDER DATED
26.11.2024 IN I.A.NO. 1 OF 2024 IN WRIT
APPEAL NO. 1847 OF 2022.
- Exhibit P9 A TRUE PHOTOCOPY OF THE NOTIFICATION NO. GS6-
2838/2022 DATED 27.11.2024

RESPONDENT EXHIBITS

- Exhibit R1D True copy of the order dated 12.7.2024 issued
by the petitioner



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Exhibit R1A	True copy of the letter 27.2.2024 received from 2nd respondent
Exhibit R1B	True copy of the Notification dated 29.7.2024 constituting the Search Committee in respect of the 2nd respondent University
Exhibit R1C	True copy of the interim order dated 1.8.2024 in WPC No. 27552 of 2024
Exhibit R1E	True copy of the order dated 8.4.2024 issued by the Petitioner