



2025:KER:34137

W.P (C) No.42637/2024

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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. 42637 OF 2024

PETITIONER/S:

STATE OF KERALA,
REPRESENTED BY THE ADDITIONAL SECRETARY TO THE
GOVERNMENT,
ELECTRONICS AND INFORMATION TECHNOLOGY 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

RESPONDENT/S:

- 1 THE CHANCELLOR,
KERALA UNIVERSITY OF DIGITAL SCIENCES INNOVATION
AND TECHNOLOGY, KERALA RAJ BHAVAN,
THIRUVANANTHAPURAM, PIN - 695099
- 2 KERALA UNIVERSITY OF DIGITAL SCIENCES INNOVATION AND
TECHNOLOGY, REPRESENTED BY ITS REGISTRAR,
TECHNOPARK PHASE IV, PALLIPURAM THIRUVANANTHAPURAM,
KERALA, PIN - 695317
- 3 DR. CIZA THOMAS,
KP 7/240A, EASWARAN THAMPI NAGAR, KALLAYAM
P.O, THIRUVANANTHAPURAM, PIN - 695043



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BY ADVS.

S.PRASANTH, SC, CHANCELLOR OF UNIVERSITIES OF KERALA

NISHA GEORGE

P.SREEKUMAR (SR.)

GEORGE POONTHOTTAM (SR.)

A.L.NAVANEETH KRISHNAN

KAVYA VARMA M. M.

SILPA SREEKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-11-2024, THE COURT ON 19-05-2025 DELIVERED THE FOLLOWING:



JUDGMENT
(W.P.(C) No.42637/2024)

This writ petition has been filed by the State of Kerala challenging Ext.P4 notification bearing No. GS3-2194/2024 dated 27.11.2024 issued by the 1st respondent - Chancellor of the Kerala University of Digital Sciences Innovation and Technology (hereinafter referred to as the 'University') appointing the 3rd respondent to exercise the powers and perform the duties of the Vice-Chancellor in terms of the provisions contained in sub-section (10) of Section 11 of the Kerala University of Digital Sciences, Innovation and Technology Act, 2021 (hereinafter referred to as the '2021 Act') pending appointment of a Vice-Chancellor on a regular basis. I have, through my judgment in W.P.(C)No.42527/2024, considered a similar issue in the context of the provisions contained in the APJ Abdul Kalam Technological University Act, 2015 (hereinafter referred to as the '2015 Act'). On a consideration of the provisions of the 2015 Act and, in particular, sub-section (7) of Section 13 of that Act which, also deals with the method of appointment of a Vice-Chancellor on temporary basis, I have held that the procedure for appointment contemplated by the provisions of sub-section (7) of Section 13 of the 2015 Act must be followed. In other words, I have found, on the basis



of the provisions contained in sub-section (7) of Section 13 of the 2015 Act and, also on the basis of the findings rendered by the Division Bench of this Court in the judgment in W.A.No.1847/2022 that the notification issued by the 1st respondent appointing a person as Vice-Chancellor of the APJ Abdul Kalam Technological University was bad since the said notification was not issued following the procedure contemplated by the provisions of sub-section (7) of Section 13 of the 2015 Act. However, it has also been clarified that the person appointed must have the qualifications contemplated by the University Grants Commission Regulations (On Minimum Qualifications for appointment of teachers in Universities and Colleges 2018).

2. It was contended for the State that the findings of this Court in the judgment in W.A.No.1847/2022 actually cover the issue raised in this case as well. If that were the case, this Writ Petition must also be disposed of in the lines of the judgment in W.P.(C)No.42527/2024. I find that the provisions of sub-section (10) of Section 11 of the 2021 Act are in *pari materia* with the provisions of sub-section (7) of Section 13 of the 2015 Act. The provisions are extracted below:-



Sub-section 10 of Section 11 of the Kerala University of Digital Sciences, Innovation and Technology Act, 2021.	Sub-section 7 of Section 13 of the A.P.J Abdul Kalam Technological University Act, 2015.
“(10) In the event that a temporary vacancy occurs in the post of Vice-Chancellor due to any unforeseen or casual reason or if the Vice-Chancellor has to be temporarily abstained himself from the said position, the Chancellor may appoint the Vice-Chancellor of any other University or the Secretary of Electronics and Information Technology Department, as recommended by the Government, to be the Vice-Chancellor, for a period of not exceeding six months, in the aggregate.”	“(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-Chancellor of this University or the Secretary to Government. Higher Education Department, recommended by the Government, to be the Vice-Chancellor for a period not exceeding six months in the aggregate, namely:- (i) where the committee appointed under sub-section (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 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.”

Thus, it can be seen that while sub-section (10) of Section 11 of 2021 Act also empowers the 1st respondent to appoint a person to act as the Vice-Chancellor



in any of the contingencies contemplated by the provisions, this must be preceded by the recommendation of the State Government. Thus for all practical purposes sub-section (10) of Section 11 of the 2021 Act contemplates that the power to appoint a temporary Vice-Chancellor shall be exercised only on the basis of the recommendation of the Government. Therefore, Ext.P4 cannot be sustained. However, since the term of appointment of the 3rd respondent is to expire by 27-05-2025, I direct that this finding will not have the effect of dislodging the 3rd respondent till 27-05-2025.

Therefore, this writ petition will stand disposed on the basis of the findings rendered in the judgment in W.P.(C) No.42527/2024 and directing that, if the post of Vice-Chancellor of the University is being filled up on temporary basis or on a regular basis, the same shall be done in accordance with the provisions of Section 11 of the 2021 Act read along with the provisions of the UGC Regulations. In case of any conflict, the UGC Regulations will prevail over the provisions of the Statute. Taking into consideration the importance of the post of Vice-Chancellor of the University; as observed by the Supreme Court in ***Gambhirdan K. Gadhvi v. State of Gujarat; (2022) 5 SCC 179*** which was quoted with approval by the Supreme Court in ***Dr. Sreejith (supra)***, I also direct that the steps shall be



taken to fill up the post of Vice-Chancellor of the University on a regular basis without undue delay, unless the proceedings have been interdicted by any order of this Court or the Supreme Court. Thus the writ petition will stand disposed of as follows:-

- (i) It is declared that Ext.P4 notification is not sustainable in law for the reason that it is not issued in accordance with the procedure contemplated by Section 11(10) of the 2021 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 11 of the 2021 Act on regular basis keeping in mind the provisions of the UGC Regulations on Minimum Qualification for appointment of Teachers in Universities and Colleges, 2018;

- (iv) It is clarified that the UGC Regulations 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 2021 Act. In other words, it is clarified that the provisions of Section 11 of the 2021 Act shall apply only to the extent that it is in conformity with the UGC Regulations on Minimum Qualification for appointment of 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) 42637/2024

PETITIONER EXHIBITS

- Exhibit P1 A TRUE PHOTOCOPY OF THE JUDGMENT DATED
16.02.2023 IN WRIT APPEAL NO. 1847 OF 2022
- Exhibit P2 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 P3 A TRUE PHOTOCOPY OF THE LETTER NO.IT-
B2/68/2024-ITD-PART(1) DATED 25-10-2024, FROM
THE SECRETARY TO THE GOVERNMENT OF KERALA,
ELECTRONICS AND INFORMATION TECHNOLOGY (B)
DEPARTMENT, ADDRESSED TO THE ADDITIONAL CHIEF
SECRETARY TO THE GOVERNOR
- Exhibit P4 A TRUE PHOTOCOPY OF THE NOTIFICATION NO. GS6-
2838/2022 DATED 27.11.2024