

RESERVED JUDGMENT

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (S/B) No. 567 OF 2021

JUDGMENT RESERVED : **15th JUNE, 2023**

JUDGMENT DELIVERED : **05th JULY, 2023**

Between:

Dr. Vinod Kumar Chauhan.

...Petitioner

and

State of Uttarakhand and others.

...Respondents

Counsel for the petitioner. : Mr. Pradeep Kumar Chauhan, learned counsel for the petitioner.

Counsel for respondent no. 1. : Mr. Pradeep Joshi, learned Additional Chief Standing Counsel and Mr. B.S. Parihar, learned Standing Counsel for the State of Uttarakhand.

Counsel for respondent no. 2. : Mr. Suyash Pant, learned counsel.

Counsel for respondent no. 3. : Mr. Bhupesh Kandpal, learned counsel.

Counsel for respondent no. 4. : Mr. M.S. Tyagi, learned Senior Counsel assisted by Mr. Sunil Chandra, learned counsel.

JUDGMENT : (per Sri Vipin Sanghi, C.J.)

The petitioner has preferred the present Writ Petition to seek a writ of *quo warranto* against respondent nos. 3 and 4, who were, at the time of filing of the present Writ Petition, serving as the Vice Chancellor, and Registrar of the Uttarakhand Ayurved University, Harrawala, Dehradun. Since then,

respondent no. 4 has ceased to be the Registrar of the said University. Consequently, so far as this Writ Petition *qua* respondent no. 4 is concerned, it has become infructuous.

2. The case of the petitioner is that the respondent-University is a State University, constituted under the Uttarakhand Ayurved University Act, 2009 (for short "*the 2009 Act*"). Section 11 of the 2009 Act provides for appointment and tenure of the Vice Chancellor. The petitioner claims that the respondent-University is bound to comply with Regulation 7.3 of the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 (for short "*UGC Regulations, 2018*"), framed by the UGC.

3. On the other hand, the stand of the respondents is that the UGC Regulations, 2018 are not applicable to the respondent-University, for the reason that it is a State University, constituted under a State enactment, and it is not a centrally funded University.

4. On this aspect, we find merit in the submission of the respondents, that the respondent-

University is not, *per se*, bound to follow the UGC Regulations, 2018, as the respondent-University is a State University, and it does not receive any aid from the Central Government. This conclusion, however, is not dispositive of the present Writ Petition. We, accordingly, proceed to consider the further issues relating to the challenge to the continuation of respondent no. 3 in office.

5. Respondent no. 2 issued an advertisement/ press note dated 30.01.2020, inviting applications for the post of Vice Chancellor, Uttarakhand Ayurved University, Dehradun. The said advertisement/ press note reads as follows :-

“Press Note

Curriculum vitae from distinguished scholars, academicians of repute, a visionary with excellent leadership quality having highest level of competence, Integrity, morals and institutional commitment in the field of ayurved education, with a minimum of ten years of experience as Professor in a University system or ten years experience in a equivalent position in a reputed research and or academic administrative organization are invited for consideration for appointment to the post of Vice-Chancellor, Uttarakhand Ayurved University, Dehradun. Maximum age at the time of recommendation by search committee shall not be more than 65 years. The term shall for a period of three years from the date of joining.

The Curriculum vitae should be sent to the office of the undersigned by registered/speed post so as to reach the office by 15th February 2020 for placement before the search committee. The details of documents required are available on its website www.au.ac.in.”

6. A corrigendum was issued to the said advertisement/ press note on 20.02.2020, which reads as follows :-

“Press Note
(Corrigendum)

The Advertisement No-259/XL-1/2020 -149/2010 T.C-II Dated 30 January 2020 published in daily newspapers on 30 January 2020 for the post of Vice-Chancellor should be read as "Curriculum vitae from renowned Ayush educationists or retired officers from higher level suitable to hold the post of Vice-Chancellor, showing their educational and Specific administrative experience are invited for consideration for appointment to the post of Vice Chancellor, Uttarakhand Ayurved University, Dehradun Maximum age at the time of recommendation by search committee shall not be more than 65 years. The term shall for a period of three years from the date of joining.

The Curriculum vitae should be sent to the office of the undersigned by registered /speed post by 28 February 2020 for placement before the search committee. The details of documents required are available on its website www.uau.ac.in.”

7. While it is the case of the petitioner that respondent no. 3 did not fulfil the minimum eligibility qualification and experience requirements prescribed in the advertisement/ press note, it is the case of the respondents that, after issuance of the Corrigendum to the initial advertisement/ press note, the minimum educational/ experience criteria stood substituted, and that respondent no. 3 fulfilled the substituted criteria for appointment to the post of Vice Chancellor of the Uttarakhand Ayurved University.

8. Section 11 of the 2009 Act, insofar as, it is relevant reads as follows :-

“Appointment and Tenure of the Vice - Chancellor

11.

(1) The Vice-Chancellor shall be a whole time salaried officer of the University and shall be appointed by the Chancellor except as provided from amongst the persons whose names are submitted to him by the Committee constituted in accordance with the provisions of sub-section (2) by the State Government.

(2) The Committee specified to in sub-section (1) shall have following members, namely:-

(a) A serving/ retired Judge of State High Court nominated by the Chief Justice;

(b) A renowned educationist nominated by the State Government;

(c) A member nominated by the Chancellor;

(d) A nominated member by the executive council;

(e) Additional Chief Secretary/ Principal Secretary/ Secretary, Ayush education as a member secretary;

The State Government shall appoint one of the members of committee as a Chairperson of the Committee.

*The Committee shall forward a panel of three to five such **renowned Ayush educationists** or retired officers from higher level **suitable to hold the post of Vice-chancellor**, showing their educational and specific administrative experience in the alphabetical order to the State Government. At the time of recommendation by the committee, the maximum age of recommended person in the panel shall be 65 years. The recommendation by the State Government shall be forwarded to the Chancellor.”*

(emphasis supplied)

9. The case of the petitioner is that respondent no. 3 did not have the minimum qualification and experience, inasmuch as, he was promoted to the post of Professor only on 29.12.2014. On the date of his appointment as the Vice Chancellor, i.e. 14.07.2020, he did not have minimum of ten years of experience as a Professor in a University, or ten years of experience in a reputed research and/ or academic administrative organisation, with proof of having demonstrated academic leadership.

10. The original stand of the respondent no. 3, primarily, was that UGC Regulations, 2018 were not binding on the respondent-University.

11. The matter was heard at length on 09.06.2023, when we noticed the submissions of learned counsels. After taking note of the initial advertisement/ press note, the Corrigendum/ press note, as well as Section 11 of the 2009 Act, we observed as follows :-

"10. It would, therefore, be seen that the Act itself does not prescribe the minimum educational qualification and experience criteria for appointment as the Vice Chancellor of the University. However, it lays down the guideline, which is, that a candidate should be a renowned Ayush educationist, or retired officer from higher level suitable, to hold the post of Vice Chancellor.

11. Even if we were to accept this submission of respondent no. 3, that the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 does not, per se, apply to the respondent-University, that does not answer the question, whether respondent no. 3 satisfied the minimum qualification and experience criteria laid down by the respondent-University, while offering his candidature for the post of Vice Chancellor, in terms of the advertisement/ press note dated 30.01.2020.

12. Under Section 11(2) of the Uttarakhand Ayurved University Act, 2009, the respondent-University is empowered to lay down minimum educational and experience criteria. Keeping in view the guideline contained in Section 11(2), this was done, while issuing the press note/ advertisement dated 30.01.2020. The purpose of the Corrigendum dated 20.02.2020 was merely to broaden the scope of the advertisement/ press note dated 30.01.2020, and bring it in tune with Section 11(2) of the Act, since the initial advertisement/ press note used the expression "in the field of ayurved education", whereas Section 11(2) uses the expression "renowned Ayush educationists". The expression "Ayush" is broader, as it covers other Indian systems of Medicine, i.e. Yunani, Siddha and Homeopathy.

13. It is absolutely clear to us that the purpose of the Corrigendum was not to consume, or to completely nullify the initial advertisement/ press note dated 30.01.2020, and to eat into the minimum educational qualification and experience criteria laid down in the said advertisement.

14. Therefore, respondent no. 3 would have to establish that he meets the minimum educational qualification and experience criteria, as laid down in the advertisement/ press note dated 30.01.2020.

15. The counter affidavit, as filed by respondent no. 3, does not deal with the aforesaid aspect at all, since the only defence taken by respondent no. 3 is that the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 does not, per se, apply to the respondent-University.

16. In the face of the aforesaid, Mr. Bhupesh Kandpal seeks only two days' time to file a supplementary affidavit, to bring before this Court the averments, with supporting documents, to establish

that respondent no. 3 meets the educational qualification and experience criteria, as laid down in the initial advertisement/ press note dated 30.01.2020.

17. In the interest of justice, we grant respondent no. 3 two days' time to file a supplementary affidavit in the aforesaid terms. No further time shall be granted."

12. In pursuance of our order dated 09.06.2023, respondent no. 3 has filed a supplementary affidavit dated 11.06.2023. In the said supplementary affidavit, respondent no. 3 has sought to urge that the Corrigendum/ press note completely substituted the prescription of qualification and experience contained in the original advertisement/ press note dated 30.01.2020, since the Corrigendum uses the words "*should be read as*". Respondent no. 3 also claimed that he had been working and discharging administrative duties as Head of Department in Gurukul Kangri Ayurvedic College, Haridwar from 20.04.1993 till 14.08.2008. Respondent no. 3 claimed that he had total experience, of serving as Head of Department in Gurukul Kangri Ayurvedic College, of approximately 17 years. He also had experience of discharging administrative duties as the Principal/ Campus Director, Rishikul Campus, Haridwar between 28.03.2017 and 25.07.2019. In the supplementary affidavit, respondent no. 3 gave the following tabulation regarding his experience :-

Sr. No.	Post	Organization / University	Duration		Experience (In Years and Month)
			From (Date)	To (Date)	
1.	Head of Department	Gurukul Kangari Ayurvedic College, Haridwar	20.04.1993 ../.../2014	../...2008 28.03.2017	15 Years 03 Years
2.	Member, Board of Studies	UAU Haridwar	28.03.2017	25.07.2019	2 Years
3.	Dean of Faculty	UAU Dehradun and Faculty of Ayurveda, HNB Shrinagar (Garhwal)	28.03.2017	25.07.2019	2 Years 4 Months
4.	Others (Specify)	Principal/Campus Director Medical Superintendent Rishikul Campus, UAU Haridwar/ Additional Medical Superintendent Gurukul Kangri Ayurvedic College	28.03.2017	25.07.2019	2 Years 4 months
5.	Head of Department	Rishikul Campus, UAU	26.07.2019	11.09.2019	01 month 15 days
6.	Officiating Vice Chancellor	UAU, Haridwar	12.09.2019	11.03.2020	06 month

13. We have considered the aforesaid submissions of learned counsel for respondent no. 3, and we do not find any merit in the same.

14. Section 11 of the 2009 Act has been reproduced hereinabove, insofar as, it is relevant. The said Section provides that the Vice Chancellor shall be a whole time salaried officer of the University. The said Section, by itself, does not prescribe the minimum educational qualifications and experience, which a candidate, for the post of Vice Chancellor, should

possess. It lays down, in sub-section (2), the constitution of the Selection Committee, and goes on to state that *“the Committee shall forward a panel of three to five such renowned Ayush educationists or retired officers from higher level suitable to hold the post of Vice-chancellor, showing their educational and specific administrative experience in the alphabetical order to the State Government. At the time of recommendation by the committee, the maximum age of recommended person in the panel shall be 65 years. The recommendation by the State Government shall be forwarded to the Chancellor”*.

15. The aforesaid extract would show that the candidates should be renowned ayush educationists, or retired officers from higher level suitable to hold the post of Vice Chancellor. The maximum age prescribed in the aforesaid provision is 65 years. Thus, a suitable candidate, for appointment to the post of Vice Chancellor of the Uttarakhand Ayurved University, need not necessarily be drawn from the Ayurved stream itself.

16. The advertisement/ press note initially issued on 30.01.2020, instead of mentioning “Ayush” – which covers Ayurved, Yunani and Siddha systems of Indian

Medicine, used the words “Ayurved Education” and was, therefore, restrictive. Since neither Section 11 of the 2009 Act, nor any other statutory provision prescribes the minimum educational qualifications, or experience requirement, for appointment to the post of Vice Chancellor, it was left to the respondent-University to evolve and prescribe the minimum educational qualifications and experience criteria.

17. A perusal of the advertisement/ press note dated 30.01.2020 shows that the same is in tune with the prescription, for appointment as Vice Chancellor, contained in Regulation 7.3 of the UGC Regulations, 2018, which reads as follows :-

“i. A person possessing the highest level of competence, integrity, morals and institutional commitment is to be appointed as Vice-Chancellor. The person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of ten years’ of experience as Professor in a University or ten years’ of experience in a reputed research and / or academic administrative organisation with proof of having demonstrated academic leadership.”

18. Even though the respondent-University may not have been bound to follow the UGC Regulations, 2018 - since it is a State University and is not funded by the Central Government, nothing prevented the respondent-University from, on its own, adopting the

same qualification for appointment to the post of Vice Chancellor, as is prescribed in the UGC Regulations, 2018. Since the respondent-University adopted the said criteria for educational qualification and experience, while issuing its advertisement/ press note dated 30.01.2020, it was essential for the candidates, applying for the said post, to meet the said criteria.

19. Learned counsel for respondent no. 3 has argued that the effect of the corrigendum/ press note dated 20.02.2020 was to completely override and efface the earlier issued advertisement/ press note on 30.01.2020.

20. We have difficulty in accepting this submission, for the reason that, by its very nature, a Corrigendum can only modify the earlier issued advertisement/ press note, and cannot completely override or efface the same. If the intention of the respondent-University was to completely wipe out the original advertisement/ press note, it would not have issued the second press note dated 20.02.2020, by calling it "Corrigendum". The respondent-University would have simply withdrawn the earlier press note dated 30.01.2020, and issued a fresh one. It appears to

us that the second press note/ Corrigendum was issued, primarily, to make amends, i.e. to substitute the words “*ayurved education*” with “*Ayush educationists*”.

21. The original press note/ advertisement dated 30.01.2020, which uses the words “*distinguished scholars, academicians of repute, a visionary with excellent leadership quality having highest level of competence, integrity, morals and institutional commitment*”, is in tune with Section 11(2) of the Act, which uses the words “*renowned Ayush educationists or retired officers from higher level suitable to hold the post of Vice-Chancellor*”, as, only such persons could be considered as “*suitable to hold the post of Vice Chancellor*”.

22. At this juncture, we may deal with the word “Corrigendum”. “Corrigendum” (plural corrigenda) is a word of Latin origin, which means a thing to be corrected. The word “Erratum (French)” means a mistake in printing or writing; a note drawing attention to such a mistake. The word “Errata” is a word of French origin and means “a thing that should be corrected. After a book has been printed, it often happens that certain mistakes are found to have been

overlooked. In later editions, it is usual to insert, a list of such mistakes and to point out the necessary corrections. These are called “corrigenda”. In Capital’s Legal and Med. Dictionary, Vol. I, published by Bansal and Raheja, at page 285, the word “Corrigendum” has been defined as *“Additional message by way of printing for correction, depicting errors in the original writing or publication and further giving details of correction. As per Judicial Dictionary by Justice L.P. Singh and Majumdar, 2nd Edition, page 552, the word “Corrigendum” means things to be correct. It means there must be an error and there is a necessity to amend and rectify it. In the garb of corrigendum, a rule cannot be altered and or changed. In the case of **Piara Singh v. State of Punjab and Ors., AIR 2000 SC 2352**, the Hon’ble Supreme Court held that there is no bar on issuing the corrigendum or ‘more corrigenda’ for correcting the arithmetical error. The Hon’ble Allahabad High Court in the case of **Parvati Devi v. State of U.P. and Ors., 2007 (6) ALJ 50** dealt with the scope of “Corrigendum”, and held that “in view of the above, the legal position can be summarized that a corrigendum can be issued only to correct a typographical error or omission therein. However, it is meant only to correct*

typographical/ arithmetical mistake. It cannot have the effect of law, nor it can take away the vested right of a person, nor it can have the effect of nullifying the rights of persons conferred by the law.”

23. The candidate had to demonstrate his aforesaid qualities through his, at least, ten years’ experience as Professor in a University system, or ten years’ experience **in equivalent position** in a reputed research and/ or academic administrative organization. Pertinently, the second press note/ corrigendum also uses the words “*suitable to hold the post of Vice Chancellor*”. This expression, having been understood by the respondent-University itself – while issuing the original press note/ advertisement on 30.01.2020, as a person, who is a distinguished scholar, academician of repute, a visionary with excellent leadership quality, having highest level of competence, integrity, morals and institutional commitment, with minimum ten years of experience as Professor in a University system, or ten years’ experience in an equivalent position in a reputed research and/ or academic administrative organization, in our view, the Corrigendum cannot be read, or understood to take away the said yardstick for

determination of suitability for appointment to the post of Vice Chancellor.

24. If the submission of respondent no. 3 were to be accepted, and the Corrigendum/ press note dated 20.02.2020 were to be read as completely substituting and overriding the original press note/ advertisement dated 30.01.2020, it would mean that anyone, who claims to be a renowned Ayush Educationist, or retired officer from higher level, could apply and offer his/ her candidature for the post of Vice Chancellor, and the Selection Committee could appoint any such person, without any other guideline to determine the suitability of the candidate to hold the post of Vice Chancellor.

25. In our view, the press note/ Corrigendum dated 20.02.2020 could not be read in such a way, as to make it completely unguided and vague. That would vest the Selection Committee with too wide and unguided discretion, which would expose the power, and its exercise, to challenge on ground of arbitrariness. A Vice Chancellor of a University is the highest Executive Officer of the University, and, therefore, it cannot be imagined that a person, who does not have at least the bare minimum prescribed educational qualification and

experience could be appointed as the Vice Chancellor of a University. A University would have a complete complement of Educationists, apart from other non-teaching staff. It would have Assistant Professors, Associate Professors and Professors on its rolls. It is difficult to imagine that the Vice Chancellor himself may be somebody with little, or no experience in an academic environment of serving at a higher level. If the submission of respondent no. 3 were to be accepted that the press note/ Corrigendum dated 20.02.2020 alone has to be seen, that would be the precise result.

26. For the aforesaid reasons, we reject the submission of respondent no. 3 that the press note/ advertisement dated 30.01.2020 stands completely effaced or superimposed by the press note/ corrigendum dated 20.02.2020. As we have already noticed, the purpose of the said press note/ corrigendum appears to be only to expand its scope, and to bring it in tune with Section 11(2) of the 2009 Act, by substituting the words "*ayurved education*" with "*ayush educationists*".

27. In the aforesaid light, we now proceed to examine, whether the claim made by respondent no. 3,

with regard to his experience, meets the requirements of the press note/ advertisement dated 30.01.2020.

28. Admittedly, respondent no. 3 did not have minimum ten years of experience as Professor in a University system, when he made his application, and was appointed to the post of Vice Chancellor of the respondent-University. He claims his eligibility, in his supplementary affidavit, on the basis of his experience as Head of Department in Gurukul Kangri Ayurvedic College, Haridwar between 20.04.1993 and 28.03.2017 and, thereafter, his experience as Member, Board of Studies and Dean of Faculty in UAU, Haridwar and UAU, Dehradun, and Faculty of Ayurveda at Srinagar between 28.03.2017 and 25.07.2019.

29. The requirement of experience prescribed in the press note/ advertisement dated 30.01.2020 is ten years' experience in an *sic* (a) "equivalent position in a reputed research and/ or academic administrative organization". The position of Head of Department, or Member, Board of Studies, or Dean of Faculty, cannot be considered as experience in an equivalent position. Even respondent no. 3 does not state as to how his experience, as Head of Department, or Member, Board

of Studies, or Dean of Faculty could be considered as experience in an equivalent position, i.e. a position equivalent to the position of a Professor in a University system. Pertinently, the said experience claimed by the petitioner did not entirely relate to his experience, while holding the post of a Professor, as he was appointed as a Professor only on 29.12.2014.

30. It is, therefore, absolutely clear to us that on the date of his appointment, respondent no. 3 did not fulfill the minimum educational requirement and experience criteria fixed by the respondent-University for appointment to the post of Vice Chancellor of the respondent-University. That being the position, we are of the view that he is not entitled to continue to hold the said post.

31. We, accordingly, allow the present Writ Petition, and declare that respondent no. 3 is not entitled to hold the post, or serve in the capacity of Vice Chancellor of respondent no. 2-University. Respondent no. 3 stands divested from the post of Vice Chancellor of the respondent no. 2-University with immediate effect.

32. The Writ Petition stands allowed in the aforesaid terms, leaving the parties to bear their respective costs.

33. Pending application(s), if any, also stand disposed of accordingly.

VIPIN SANGHI, C.J.

RAKESH THAPLIYAL, J.

Dt: 05th July, 2023
Rahul