

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 15 OF 2016

Ashish Kumar Sharma, S/o Shri B.P. Sharma, aged about 35 years, R/o Masanganj, Eidgaah Road, in front of Press Club, P.S. Civil Lines, Bilaspur (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Department of Higher Education, Mantralaya, Naya Raipur (C.G.)
2. The Chancellor, Indira Gandhi Krishi Vishwavidyalaya, Raj Bhawan, Civil Lines, Raipur (C.G.)
3. Indira Gandhi Krishi Vishwavidyalaya, through the Registrar, Krishak Nagar, Raipur (C.G.)
4. Vice Chancellor, Indira Gandhi Krishi Vishwavidyalaya, Krishak Nagar, Raipur (C.G.)
5. Sanjay Kumar Patil, presently posted as Vice Chancellor, Indira Gandhi Krishi Vishwavidyalaya, Krishak Nagar, Raipur (C.G.)

... Respondents

For Appellant	:	Mr. Nilendu Naharoy, Advocate.
For Respondent No.1	:	Mr. J.K. Gilda, Advocate General.
For Respondents No. 2, 3 & 4	:	Mr. B.D. Guru, Advocate.
For Respondent No.5	:	Mr. Neelabh Dubey, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

23/02/2016

1. The present appeal arises from order dated 10.12.2015 dismissing Writ Petition (S) No. 4357 of 2015. The Learned Single Judge declined to issue a writ of quo warranto questioning the appointment of Respondent No.5 as Vice Chancellor of the Indira Gandhi Krishi Vishwavidyalaya, Raipur (hereinafter referred to as the "Agricultural University").

2. Learned Counsel for the Appellant submitted that Respondent No.5 was appointed as Vice Chancellor on 1.11.2011 under Section 14(1) of the Indira Gandhi Krishi Vishwavidyalaya Act, 1987 (hereinafter referred to as "the Act"). He did not meet the eligibility requirements prescribed in sub clause (I) of clause 7.3.0 of the UGC Regulations, 2010 of being a distinguished academician, with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organization. It was next submitted without prejudice to the above that the Respondent No.5 was also not a man of high level of competence, integrity and morals to be appointed Vice-Chancellor as required by the same Regulations. The submission has been noticed by the Learned Single Judge but has not been considered. Respondent No.5 had been warned pursuant to financial audit regarding financial irregularities detected during his tenure as Director of Research Services in the University.

3. The UGC Regulations, 2010 are deemed to have been adopted by the State Government. Therefore it was required to be complied with in appointment of the Vice- Chancellor. The self-study report of the Agricultural University for the period 2006-07 to 2011-12 states that it has adopted the UGC Regulations on minimum qualifications for appointment and for career advancement/merit promotion scheme of Lecturers, Readers and Professors as suggested by the UGC. Acknowledging that the letter dated 2.8.2010 of the Ministry of Agriculture addressed to all Chief Secretary's of States was not placed before the Learned Single Judge, it was submitted that the letter also endorses consideration of the UGC Regulations for adopting by the State Agricultural University. Reading the two together it was contended

that the Learned Single erred in holding that the UGC Regulations, 2010 had not been adopted by the State Government as required by regulation 7.4.0 of the UGC Regulations, 2010.

4. Learned Advocate General submitted that clause 7.4.0 of the UGC Regulations, 2010 does not automatically and ipso facto apply to State Universities unless the State Government modifies or amends the relevant Acts or Statutes. The Learned Single Judge has held that there was no evidence for adoption of the Regulations by the State Government. The appointment of Respondent No.5 is not alleged to be in violation of any provisions the Act.

5. We have considered the submissions on behalf of the parties and find no reason to interfere with the well considered reasoning of the Learned Single Judge. The core issue for determination was with regard to whether by virtue of the UGC Regulations, 2010 the Act stood automatically amended in accordance with the same or was any specific act required on the part of the State Government to amend the Act. Clause 7.4.0 of the UGC Regulations, 2010 reads as follows:-

“The Universities/State Governments shall modify or amend the relevant Act/Statutes of the Universities concerned within 6 months of adoption of these Regulations.”

6. The Learned Single Judge at paragraph 20 held that the Appellant had failed to demonstrate the adoption by the State Government of the UGC Regulations, 2010 in accordance with Regulation 7.4.0 to the Agricultural University. The reliance by the Appellant on the self-study report or the recommendation dated 2.8.2010 of the Ministry of Agriculture does not amount to an adoption by the State Government of the UGC Regulations. The act of adoption has to be by a specific order followed by amendments in the Act and

published in accordance with law. The Learned Single Judge has adequately referred to (2015) 6 SCC 363 (Kalyani Mathivanan v. K.V. Jeyaraj and others) wherein it has been observed :

“62.3. The UGC Regulations, 2010 are mandatory to teachers and other academic staff in all the Central universities and colleges thereunder and the institutions deemed to be universities whose maintenance expenditure is met by UGC.

62.4. The UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation as the matter has been left to the State Government to adopt and implement the Scheme. Thus, the UGC Regulations, 2010 are partly mandatory and is partly directory.

62.5. The UGC Regulations, 2010 having not been adopted by the State of Tamil Nadu, the question of conflict between the State legislation and the Statutes framed under the Central legislation does not arise. Once they are adopted by the State Government, the State legislation to be amended appropriately. In such case also there shall be no conflict between the State legislation and the Central legislation.”

7. Section 14 of the Act provides for the appointment of the Vice-Chancellor in the University by the Chancellor from a panel of names recommended by the selection committee. The Chancellor also had the discretion to reject any name. There are no allegations whatsoever that Respondent No.5 has been appointed in violation of any Statutory provisions under the Act.

8. The contention of the Appellant that Respondent No.5 was not a man of high competence, morals and integrity is frivolous and merits no consideration. It is a misrepresentation and distortion of facts by the Appellant. The audit objection for the year 2009-2010 at paragraph 3 specifically mentions seven names who were holding the concerned posts at the relevant time. Respondent No.5 is not named therein. The allegation related to issuance of cheques in the month of March when the cheque book itself had been issued by the Bank in April opined to

have been done presumably to avoid lapsing of funds. Be that as it may the letter dated 2.5.2011 issues warning to the concerned to be communicated through Respondent No.5 only.

9. We are informed that Respondent No.5 has barely eight more months to go before his tenure as Vice Chancellor comes to an end in October, 2016.

10. There is no merit in the appeal. It is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge