

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6198 OF 2016

Dr.Suresh Govindrao Borkar,
age: 60 years, Occ: Service,
R/o Head of Department,
Plant Pathology,
Mahatma Phule Krishi Vidyapeeth,
Rahuri, Tq. Rahuri,
District Ahmednagar.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
Ministry of Agriculture,
Mantralaya, Mumbai.

02 The Governor,
The State of Maharashtra,
Rajbhavan,
Walkeshwar Road,
Malabar Hill,
Mumbai 400 035.

Respondent No.2 deleted
vide Court's order
dated 26.08.2016.

03 The Mahatma Phule Krishi
Vidyapeeth, Rahuri,
through its Registrar,
Rahuri,
Ahmednagar-413 722.

04 Dr.K.P.Viswanatha,
R/o The Mahatma Phule
Krishi Vidyapeeth, Rahuri,
Rahuri,
Ahmednagar-413 722.

Respondents

Mr.P.M.Shah, Senior Counsel i/by Mr.Vijay V. Deshmukh,
advocate for the petitioner.

Mr.V.S.Badakh, A.G.P. for Respondent No.1.

Respondent No.2 deleted as per Court's order dated 26.08.2016.

Mr.M.N.Navandar, advocate for Respondent No.3.
Mr.R.N.Dhorde, Senior Counsel i/by Mr.P.S.Dighe &
Mr.V.R.Dhorde, advocates for Respondent No.4.

**CORAM : R.M.BORDE &
A.M.DHAVAL, JJ.**

Reserved on : 04th August, 2017.
Pronounced on : 20th December, 2017.

JUDGMENT (Per R.M.Borde, J.):

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Petitioner is praying for issuance of writ, order or direction in the nature of writ of *quo warranto* and is praying to quash and set aside appointment of Respondent No.4 as the Vice Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri. The petitioner is also praying for issuance of writ of mandamus directing the respondents to issue appointment order appointing him as Vice Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri.

3 The petitioner is presently working as Head of the Department with Respondent No.3-University and was one of the candidates shortlisted during the process conducted for making appointment to the post of Vice Chancellor of Respondent No.3-University. There are 4 Agricultural Universities established in the State and the Hon'ble Governor of Maharashtra is Chancellor of these Universities by virtue of the powers vested under the Maharashtra Agricultural Universities (Krishi Vidyapeets) Act, 1983. There were vacancies for the posts of Vice Chancellor in two

Universities i.e. Respondent No.3 – Mahatma Phule Krishi Vidyapeeth, Rahuri and Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli. The Hon'ble Governor of Maharashtra appointed Search Committee under the Chairmanship of Justice J.N.Patel (Retired) for recommending names of suitable candidates for the post of Vice Chancellor of Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli. The Search Committee had invited applications from suitable candidates vide notification dated 14.08.2015. The Search Committee received about 50 applications in response to the notification/advertisement and during scrutiny of documents, the Committee shortlisted names of 12 candidates who were held to be eligible for personal interaction with the Committee. The petitioner was also found to be eligible and was called for interaction. It is contended that Respondent No.4, though tendered an application, was not found suitable and was adjudged as “ineligible” and thus was not called for personal interaction by the Committee. The Committee recommended names of 5 candidates including the petitioner. However, finally the Hon'ble Governor/Chancellor appointed one Dr.Tapas Bhattacharya as Vice Chancellor of Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli.

4 The Hon'ble Governor/Chancellor also formed a Search Committee under the Chairmanship of Dr.R.A.Mashelkar for recommending suitable names for being appointed to the post of Vice Chancellor of Respondent No.3-Mahatma Phule Krishi Vidyapeeth, Rahuri. A notification/advertisement was issued calling applications from suitable candidates on 06.10.2015.

5 According to the petitioner, since he fulfills requisite criteria, he was found eligible and his name was shortlisted by the Committee. The petitioner contends that though Respondent No.4 was found ineligible during the process for selection of Vice Chancellor of Konkan Krishi Vidyapeeth, Dapoli, he was found eligible erroneously by the Committee under the Chairmanship of Dr.R.A.Mashelkar. The Committee shortlisted 5 names and forwarded the list to the Hon'ble Governor/Chancellor. Respondent No.4, according to the petitioner, though does not fulfill the eligibility criteria, has been appointed as Vice Chancellor of Respondent No.3 – Mahatma Phule Krishi Vidyapeeth, Rahuri for a term of five years, by the Hon'ble Governor/Chancellor by an order dated 28.12.2015. According to the petitioner, his name also figured in the list of shortlisted candidates by the Committee under the Chairmanship of Dr.R.A.Mashelkar, however, though he possesses superior qualification and fulfills requisite norms for appointment, he was not preferred and Respondent No.4 came to be appointed.

6 Section 17 of the Maharashtra Agricultural Universities (Krishi Vidyapeets) Act, 1983 lays down procedure for making appointment to the post of Vice Chancellor of the Agricultural University. Sub-sections (1) and (2) thereof read as under:

17 Vice-Chancellor :-

[(1) The Vice-Chancellor shall be appointed by the Chancellor in the manner stated hereunder:-

(a) There shall be a Committee consisting of the following members to recommend

suitable names to the Chancellor for appointment of Vice-Chancellor, namely :-

(i) a member nominated by the Chancellor, who shall be the retired Judge of the Supreme Court or retired Chief Justice of a High Court or an eminent scientist of national repute or a recipient of Padma Award in the field of education;

(ii) the Director General, Indian Council of Agricultural Research, New Delhi;

(iii) the Principal Secretary (Agriculture) or Secretary (Agriculture), as the case may be, in the Agriculture, Animal Husbandry, Dairy Development and Fisheries Department of the Government of Maharashtra;

(b) The member nominated by the Chancellor shall be the Chairman of the Committee;

(c) The members nominated shall be the persons who are not connected with the University or any recognized institution of the University;

(d) No meeting of the Committee shall be held unless all the three members of the Committee are present:]

[(2) The process of preparing a panel shall begin at least three months before the probable date of occurrence of the vacancy of the Vice-Chancellor and shall be completed within the time limit fixed by the Chancellor. The Chancellor however, may, extend such time if in the exigency of the circumstances it is necessary so to do, so however that the period so extended shall not exceed three months in

the aggregate.]

(2A) The Committee shall recommend a panel of not less than five suitable persons for the consideration of the Chancellor for being appointed as the Vice-Chancellor within a period of two months from its constitution. The names so recommended shall be in alphabetical order without any preference being indicated. The report shall be accompanied by a detailed write up on suitability of each person included in the panel.

(2B) The Chancellor may select one of the said persons from such panel for the post of the Vice-Chancellor and appoint the person to such post. If the Chancellor does not approve any of the person in the panel or if the person selected by the Chancellor for the post of the Vice-Chancellor is not willing to accept the office of the Vice-Chancellor, the Chancellor may require the above mentioned Committee to prepare a fresh panel.

(2C) A person for being recommended by the Committee for appointment as a Vice-Chancellor shall, -

(a) be an eminent academician or an administrator of high caliber;

(b) be able to provide leadership by his own example;

(c) be able to provide vision and have ability to translate the same into reality in the interest of students and society; and

(d) possess such educational qualifications and experience as may be specified by the State Government, by an order published in the Official

Gazette, in consultation with the
Chancellor.

(2D) The eligibility conditions and the process for recommendation of names for appointment as Vice-Chancellor shall be given wide publicity to ensure the recommendation of most suitable candidates.]

7 As has been laid down under Section 17, the Search Committee, appointed for making recommendations of suitable candidates for the post of Vice Chancellor, shall consists of a Member nominated by the Chancellor, who shall be (i) a retired Judge of the Supreme Court or retired Chief Justice of a High Court or an eminent Scientist of National repute or a recipient of *Padma* Award in the field of Education; (ii) the Director General, Indian Council of Agricultural Research, New Delhi; (iii) the Principal Secretary (Agriculture) or Secretary (Agriculture), as the case may be, in the Agriculture, Animal Husbandry Dairy Development and Fisheries Department of the Government of Maharashtra. The Member nominated by the Governor, shall be the Chairman of the Committee.

8 As has been recorded above, Justice J.N.Patel (Retired) was appointed as the Chairman of the Search Committee for recommending names for the post of Vice Chancellor of Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli, whereas, Dr.R.A.Mashelkar, who is an eminent Scientist, has been appointed as Chairman of the Search Committee for making recommendations of suitable candidates for the post of Vice Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri. So far as Members of the Committees are concerned, Dr. Dinesh Kumar Jain

and S. Ayyappan were common Members in both the Committees.

9 It is the contention of the petitioner that two Members of the Committee were common and Respondent No.4 was not found eligible by the Search Committee for making recommendations of the names of suitable candidates for the post of Vice Chancellor of Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli. According to the petitioner, since Respondent No.4 was not found to be eligible during the process which was conducted simultaneously in respect of Konkan Krishi Vidyapeeth, he could not have been adjudged eligible and ought not to have been appointed as Vice Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri. According to the petitioner, Respondent No.4 does not fulfill the eligibility criteria prescribed under the Rules.

10 The eligibility conditions and qualifications for appointment to the post of Vice Chancellor are prescribed under the order issued in exercise of powers under clause (d) of sub-section (2C) of Section 17 of the Maharashtra Agricultural Universities Act, 1983. Part "A" of the Schedule lays down essential qualifications and experience. Part "B" prescribes desirable experience and Part "C" prescribes expected skill and competency. Same is as recorded below:

Schedule

PART 'A'

- 1) Earned Doctor of Philosophy (Ph.D.) in Agriculture or related fields.
- 2) Experience of 20 years in teaching, research and extension education in

Agriculture or related fields, out of which at least 8 years should be in the rank of Professor or equivalent.

3) At least five years of Administrative experience, not below the rank of Head of the Department or equivalent posts.

4) Minimum of five research publications in peer-reviewed/referred international research journals after Ph.D. and/or published quality books in a recognized discipline, referenced for study in higher education at National/International level.

5) Execution of at least one major research project/sponsored multidisciplinary research project.

6) Experience of working with international bodies or international exposure through participation in training programmes held outside the country.

PART 'B'

1) Experience of working on the Statutory Authorities of a University/ICAR.

2) Demonstrable Experience of handling academic assessment and accreditation procedure.

3) Experience to guide Ph.D. Students.

4) Experience in handling youth development work such as organizing students centric activities for their all-round development.

5) Experience of organizing events such as workshops, seminars, conferences at an International level within the country in the field of agriculture.

PART 'C'

1) Technical Skills – (a) Openness towards technology and a deep conviction regarding its potential applications in a knowledge-based settings;

b) Reasonable high level of comfort in the use of technology;

2) Managerial Skills -

a) Ability to anticipate issues and problems and prepare advance strategic plans.

b) Ability to generate resources and allocate the same appropriately;

c) Capacity to work effectively under pressure and manage work and resources within tight deadlines;

d) Good understanding of financial management including revenue generation, planning and fiscal control;

3) Alignment with corporate objectives and State as well as National level priorities -

a) Ability to identify the needs of the communities in key sectors.

b) Deep understanding of the challenges before the Nation and how higher education can respond to developmental needs;

c) Demonstrable understanding of curriculum development issues, especially those relating to widening participation and social inclusion.

4) Leadership skills -

a) Exceptional ability to motivate a diverse group of stakeholders;

b) Keen desire to further the mission and goals of the organizations;

c) Ability to think strategically and innovatively and maintain a broad perspective;

d) Ability to lead by personal example with openness to new ideas and a consultative approach in implementation of the same.

5) Interpersonal Communication and Collaborative Skills-

a) Demonstrable success in developing and executing National and International Collaborative arrangements;

b) Ability to interact effectively and persuasively with a strong knowledge base at senior levels and in large forums as well as on a one-to-one basis;

c) Evidence of being an active member of professional bodies and association in pertinent

fields.

Notes: (1) The prescribed essential qualifications are the minimum and the mere possession of the same does not entitle candidates to be called for Personal Interaction.

(2) The Search Committee reserves the right to prescribe higher standards in essential qualifications and experience while short listing the candidates for Personal Interaction.

11 The petitioner contends that Respondent No.4 does not fulfill eligibility criteria prescribed under clause (3) of Part A of the Schedule. A candidate shall have at least five years' administrative experience not below the rank of Head of the Department or equivalent post. According to the petitioner, Respondent No.4 does not possess five years' of administrative experience and the concerned Respondent has misled the Committee by demonstrating that he fulfills requisite criteria. The details of administrative experience have been furnished by Respondent No.4 along with his application, which reads as below:

Details of administrative experience not below the rank of Head of the Department (HOD) or equivalent posts.

Sr. No.	Post	Equivalent Level	From	To	Total Years and Months
1	Director of Research	Director	30.09.2015	Till date	One month
2	Director of Extension	Director	30.08.2012	30.08.2015	3 years
3	Principal Scientist (Chickpea)	Head of the Scheme	Feb 2010	Aug.2012	2 years 6 months
4	University Head,	University	Feb. 2012	Aug 2012	7 months

	Dept of Genetics & Plants Breeding	Head			
5	Principal Scientist (Chickpea) and Associate Director of Research	Zonal Head	March 2009	Feb. 2010	11 months
6	Associate Director of Research	Zonal Head	Aug 2008	Feb. 2009	6 months
7	Professor (Plant Breeding) & Scheme head, AICRP on Arid Legumes	Head of the Scheme	Sept 1998	Aug 2008	9 years 11 months
8	Associate Breeder & Scheme head, AICRP on Arid Legumes	Head of the Scheme	Dec. 1995	Sept 1998	2 years 9 months
Total Experience					20 years 3 months

12 According to the petitioner, experience of Respondent No.4 as a Director of Research, Director of Extension and University Head, Department of Genetics and Plant Breeding, even if considered to be admissible, it would be merely a three years' and eight months, which falls short of requisite mandatory requirement of five years' administrative experience. According to the petitioner, the contention of Respondent No.4 that his experience as a Head of the Scheme in the capacity of Principal Scientist and Professor shall be construed as an administrative experience, cannot be accepted. The petitioner contends that the post held by Respondent No.4, at the relevant time, as Principal Scientist (Chick Pea) or the post of Professor (Plant Breeding or Associate Breeder and Scheme Head, AICRP), cannot be considered to be equivalent post with Head of the Department. The petitioner contends that the post of Principal Scientist (Chick Pea), which

Respondent No.4 held for the period of two years and six months cannot be equated with the post of Head of the Department of the University. The Agriculture, Animal Husbandry, Dairy Development and Fisheries' Department, has published Statute i.e. the Maharashtra Agricultural Universities Act laying down qualifications for the academic posts. The qualifications prescribed for the Head of the Department are recorded in Appendix-1 of the order. The petitioner contends that the post of Professor is not equivalent to the post of Head of Department and as such, experience of Respondent no. 4, as a Professor of plant breeding for the period of nine years and eleven months, cannot be construed as an administrative experience within the prescription of Paragraph no. 3 Part A of the Schedule, framed for appointment of Vice-Chancellors. According to the petitioner, the post of Principal Scientist is not prescribed under the Statute and as such, the experience of Respondent no. 4, as Principal Scientist, cannot be equated with Head of the Scheme or the University Head and the experience gained by Respondent no. 4 for a period of two years and six months cannot be construed as an administrative experience for the purposes of claiming eligibility. The petitioner, thus, contends that since Respondent no. 4 does not fulfill basic eligibility criteria, he ought not to have been considered for appointment.

13 Respondent no. 4 has caused appearance in the matter and contested the claim. It is contended that petitioner has suppressed material facts and has annexed incorrect statement of eminence prepared by him showing experience of Respondent no. 4 as three years and eight months only. According to Respondent

no. 4 there are many complaints against the petitioner and there were certain departmental enquiry proceedings initiated against him and petitioner has been held responsible for committing the act of indiscipline and has also been penalised. According to Respondent no.4, he fulfills the requisite criteria prescribed under the relevant regulations. Respondent no. 4 was found to be most suitable amongst five candidates, those were shortlisted by the Committee. The Hon'ble Chancellor – Governor of Maharashtra was pleased to appoint him to the post of Vice-Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri. The subjective satisfaction arrived at by the Committee need not be interfered in exercise of extra ordinary jurisdiction. According to Respondent no. 4, this is not a fit case for exercising writ jurisdiction. Respondent no. 4 does not lack essential qualifications and as such, there arises no question of issuance of writ of *quo warranto*.

14 That so far as experience of Respondent no. 4 as Director of Research, Director of Extension and University Head, is concerned, same can surely be considered as an administrative experience. Petitioner contends that the Statutes framed by the University laying down the qualifications do not provide for the post of Principal Scientist or Head of the Scheme and as such, experience of Respondent no. 4 as Head of the Scheme cannot be construed as an administrative experience. The appointment of Respondent no. 4 as Principal Scientist cannot be construed to be an appointment on the post equivalent to Head of the Department and as such, Respondent no. 4 does not fulfill criteria laid down under clause (3), Part A of the Schedule. It must be noted that merely because Statute framed by the University do not provide for

aforesaid post of Principal Scientist, it cannot be said that the experience of Respondent no. 4 as Principal Scientist / Head of the Scheme cannot be construed as administrative experience. The specifications as regards responsibilities of the Principal Scientist have not been recorded in writing and those have not been produced before us.

15 Respondent no. 4 contends that as a Principal Scientist since he was Head of the Scheme, he had to perform administrative functions, same cannot be disregarded for the reason that the Search Committee has accepted contention of Respondent no. 4. The subjective satisfaction arrived at by the Search Committee, which has conducted due enquiry and examined documentary record and has interviewed the candidates, cannot be disregarded while exercising writ jurisdiction. The contention of the petitioner that merely because there is no reference to the post of "Principal Scientist" in the Statute framed by the University, cannot be a reason to hold that the post held by Respondent no. 4 as Principal Scientist and his functions as Head of the Scheme, cannot be equated with the Head of the Department. Respondent no. 4 does possess academic qualifications and fulfills all other requisites prescribed under the regulations and thus, has been adjudged as qualified for the post of Vice-Chancellor.

16 The contention of the petitioner that since Respondent no. 4 was not adjudged as eligible during the process of selection for the post of Vice-Chancellor of Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth, Dapoli, he will have to be adjudged as ineligible

during the process, is not liable to be accepted. The scrutiny of the decision of holding Respondent no. 4 ineligible during the selection process for appointment of Vice-Chancellor for Konkan Krishi Vidyapeeth, is not a matter of consideration in the instant matter. It is not known as to why Respondent no. 4 has been adjudged as ineligible. There are no reasons recorded for holding so by the Search Committee headed by Justice J.N. Patel (Retired). The correctness or otherwise of the said decision cannot be a matter of consideration in this petition and merely because Respondent no. 4 was adjudged as ineligible in the said process will not lead to a conclusion automatically that the said respondent is ineligible for appointment to the post of Vice-Chancellor. We have to examine decision of the Search Committee on the basis of material placed before us. The contention raised by the petitioner that Respondent no. 4 is ineligible and lacks basic qualification for the post of Vice-Chancellor, deserves to be rejected.

17 The petitioner relied upon decision of the Supreme Court in the matter of **Centre for PIL and Another Vs. Union of India and another**, reported in 2011(4) SCC 1. In paragraph 51, it is recorded thus:

“51 The procedure of quo warranto confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public offices against the relevant statutory provisions. Before a citizen can claim a writ of quo warranto he must satisfy the court inter alia that the office in question is a public office and it is held by a person without legal authority and that leads to the inquiry as to whether the appointment of the said person has been in accordance with

law or not. A writ of quo warranto is issued to prevent a continued exercise of unlawful authority.”

18 While considering the aspect of judicial review *vis-a-vis* appointment to the public post, it is recorded in the matter of **R.K.Jain Vs. Union of India**, reported in (1993) 4 SCC 119, vide para 73 that,

“... Judicial review is concerned with whether the incumbent possessed requisite qualification for appointment and the manner in which the appointment came to be made or whether the procedure adopted was fair, just and reasonable. We reiterate that the Government is not accountable to the courts for the choice made but the Government is accountable to the courts in respect of the lawfulness/legality of its decisions when impugned under the judicial review jurisdiction.”

19 In the instant matter, applying aforesaid principle to the instant matter, it must be recorded that there is nothing to infer that the decision is unlawful or illegal. The choice of the Hon'ble Governor/Chancellor for making appointment to the post of Vice Chancellor, amongst the five shortlisted candidates, cannot be a subject matter of review under writ jurisdiction.

20 In the matter of **Rajesh Awasthi Vs. Nand Lal Jaiswal & another**, reported in 2013 (1) SCC 501, it is reiterated that, “*the jurisdiction of the High Court to issue writ of co-warranto is limited to one which can only be issued if the appointment is contrary to the statutory rules.*” In the instant matter, it cannot be said that the

appointment of Respondent No.4 is contrary to the statutory rules.

21 The petitioner has also invited our attention to the ratio laid down by the Supreme Court in the matter of **Food Corporation of India and others Vs. Sarat Chandra Goswami**, reported in 2014(13) SC 211 and in para 10 of the judgment, it is recorded thus:

“10 Once it is held that there has to be formation of opinion and such an opinion is assailable in a legal forum, we are of the view that the said opinion has to be founded on certain objective criteria. It must reflect some reason. It can neither be capricious nor fanciful but demonstrative of application of mind. Therefore, it has to be in writing. It may be on the file and may not be required to be communicated to the employee but when it is subject to assail and, eventually, subject to judicial review, the competent authority of the Corporation is required to satisfy the court that the opinion was formed on certain parameters indicating that there was no necessity to hold an enquiry. Thus, the High Court has correctly understood the principle stated in A. Prahalada Rao and we do not find any fault with the same.

22 The petitioner contends, relying upon the aforesaid judgment, that the Search Committee has not made recommendations in consonance with Section 17 (2A) of the Act. It is contended that as required under the provision, the report is not accompanied by a detailed write up on suitability of each person included in the panel. On perusal of the report of the Search Committee, it does appear that the Committee has communicated its opinion in the “Remarks” column, which was forwarded for

consideration of the Hon'ble Governor/Chancellor. The sufficiency or otherwise of the reasons, for formation of a particular opinion, would not be a matter of scrutiny by this Court.

23 The petitioner has placed reliance on the judgment delivered by the Division Bench of this Court at the Principal Seat at Mumbai, in the matter of Vasant Ganu Patil Vs. The Chancellor, University of Mumbai & others, (PIL No.92 of 2010, decided on 11.12.2014). The appointment of Vice Chancellor Dr.Rajan Welukar was questioned in the aforesaid petition on the ground that the selected candidate does not fulfill requirement of essential qualification set out in Part A of the order dated 27.05.2009, issued by the State Government. The eligibility condition refers to publications in peer-reviewed/referred International research journals after Ph.D. And/or published quality books in a recognized discipline, referenced for study in higher education at the National/International level. While dealing with the issue, in paragraph no.62, referring to the role of Search Committee, it is observed by the Division Bench, thus:

“62 True, the Search Committee does not discharge any adjudicatory functions and, therefore, there may not be any statutory requirement to record reasons for its decision. However, this does not mean that their decision should not be based on reason. The circumstance that there is no statutory requirement to record reason, does not confer upon the Search Committee any immunity from applications of mind to all relevant considerations and exclude irrelevant consideration. The fact that the Committee is required to give a detailed write up is itself an indication that there has to be some

contemporaneous material to indicate that there was proper application of mind and cogent reasons in support of decision arrived at, particularly as the Search Committee was entrusted with the function of examining whether the candidates aspiring to be appointed to a high ranking post in the academic field fulfilled the minimum eligibility criteria and further recommend the names of the eminent academicians to the Chancellor for being appointed as Vice-Chancellor.”

24 Learned Senior Counsel appearing for Respondent No.4, placing reliance on the judgment in the matter of **University of Mysore Vs. C.D.Govinda Rao and another**, reported in AIR 1965 SC 491, has contended that in academic matters, while making appointment on the board of experts of the University for selection of the candidates for the post of Readers, the Courts, in exercise of extraordinary jurisdiction, may not cause interference. Reliance is placed on para 13 of the judgment, which reads thus:

Placitum (D)

“.... Boards of Appointments to the post of teacher are nominated by the Universities and when recommendations made by them and the appointments following on them, are challenged before courts, normally the courts should be slow to interfere with the opinions expressed by the experts. If there is no allegation about mala fides against the experts who constituted the Board, it would normally be wise and safe for the courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the courts generally can be. The Board is not in the position of an executive authority, issuing an executive fiat, nor does it act like a quasi judicial tribunal deciding disputes referred to it

for its decision. In dealing with complaints made by citizens in regard to appointments made by academic bodies, like the Universities, such an approach would not be reasonable or appropriate. Tests which would legitimately be applied in the case of writs of certiorari cannot be applied. The question of manifest error is a consideration which is more germane and relevant in a procedure for a writ of certiorari. What the High Court should consider is whether the appointment made by the Chancellor on the recommendation of the Board had contravened any statutory or binding rule or ordinance, and in doing so, the High Court should show due regard to the opinion expressed by the Board and its recommendations on which the Chancellor has acted.”

25 Similar proposition has been laid down in the matter of **Sajeesh Babu K. Vs. N.K. Santosh and others**, reported in AIR 2013 SC 141. It is held by the Hon'ble Supreme Court that judicial review of expert opinion, in the absence of allegation of bias, is unwarranted. In the matter of **Dr. Kumar Bar Das Vs. Utkal University and others**, reported in AIR 1999 SC 669, the Hon'ble Supreme Court has reiterated the same proposition. The issue before the Apex Court was in respect of appointment to the post of Professor in the University requiring ten years' teaching and/or research experience. While considering the issue, it is observed that since reasons furnished by the Syndicate, as being obvious basis of the experts opinion, the Chancellor ought not to have interfered with the view of the experts.

26 In the instant matter also, view of the Search Committee, which has been the basis for making appointment of

Respondent No.4 and the Members of the Search Committee, being the Experts, their opinion shall not be lightly brushed aside and also shall not be disregarded.

27 There are neither *mala fides* alleged nor it has been contended that the action is vitiated on account of colourable exercise of powers. There does not appear to be reasonable ground for setting aside appointment of Respondent No.4 as Vice Chancellor of Mahatma Phule Krishi Vidyapeeth, Rahuri. Respondent No.4 has been appointed some two years before and has almost completed half of the term.

28 For the reasons recorded above, no interference is called for in the writ petition. Writ Petition stands dismissed being devoid of substance.

29 Rule discharged. No costs.

A.M.DHAVALÉ
JUDGE

adb/wp619816

R.M.BORDE
JUDGE