

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: May 07, 2021

+ W.P.(C) 10615/2020 & CM APPLs. 33446/2020, 34940/2020,
5096/2021

DR. ANURADHA GUPTA Petitioner

Through: Mr. Pritish Sabharwal and
Mr. Sanjeet Kumar, Advs.

versus

UNIVERSITY OF DELHI & ORS. Respondents

Through: Mr. A. Mariarputham, Sr. Adv. Mr.
Mohinder J.S. Rupal and Ms. V.
Bhawani, Advs. for R1.
Mr. R.K. Anand, Mr. Ankur Chibber
and Mr. Anshuman Mehrotra, Advs.
for R2.
Mr. Hrishikesh Baruah, Mr. Parth
Goswami and Ms. Daisy Roy, Advs.
for R3.
Mr. Jamal Akhtar, Panel Counsel
GNCT for R4 with SI-Ravinder, PS-
Sarojini Nagar.

AND

+ W.P.(C) 3684/2021 & CM APPLs. 11168/2021, 12477/2021,
12478/2021

DR. ANURADHA GUPTA Petitioner

Through: Mr. A.K Behra, Sr. Adv. with
Mr. Kunal Mittal, Adv.

versus

UNIVERSITY OF DELHI AND ORS Respondents

Through: Mr. A. Mariarputham, Sr. Adv. with
Mr. Mohinder J.S. Rupal and Ms. V.
Bhawani, Advs. for R1.
Mr. Ankur Chibber and Mr. Anshuman
Mehrotra, Advs. for R2.

Mr. Sudhir Nandrajog, Sr. Adv. with
Mr. Anand Nandan, Adv. for R3.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

CM No. 12478/2021 in W.P.(C) 3684/2021 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 10615/2020

W.P.(C) 3684/2021

1. As these two writ petitions have been filed by Dr. Anuradha Gupta in respect of the post of *Principal* in respondent No.2 College namely Delhi College of Arts and Commerce, they are being decided by this common order. For convenience and to appreciate the issues which arises in these petitions, I shall be referring to the facts in each of the writ petitions separately.

W.P.(C) 10615/2020

2. This writ petition has been filed by the petitioner with the following prayers:

“In view of the submissions made hereinabove and the facts and circumstances of the case it is most respectfully prayed that this Hon’ble Court may kindly be pleased to:

A. Issue a writ in the nature of mandamus or any other writ thereby directing the respondents to quashing the arbitrary and illegal order dated 16.12.2020 of appointment of the Respondent No. 3 as Acting Principal of the Respondent No.

2 / College and all other consequential letters;

B. Restrain the respondent no.2 from removing the petitioner from the post of the Officiating Principal in the Respondent no. 2/college and;

C. Any other order or orders in favour of the Petitioner as this Hon'ble Court may deem fit & proper in the facts & circumstances of the present petition."

3. Respondent No.1 in this writ petition is University of Delhi ('University' for short), respondent No.2 is Delhi College of Arts and Commerce ('College' for short), respondent No.3 is Dr. Amrit Kaur Basra ('Dr. Basra' for short) and respondent No.4 is the Station House Officer, Sarojini Nagar ('SHO', for short).

4. As noted from the prayers, the challenge of the petitioner in this writ petition is primarily to the appointment of Dr. Basra as acting Principal of the College as being illegal with consequential prayer that the College be restrained from removing the petitioner as officiating Principal.

5. The petitioner joined the College as Assistant Professor on August 29, 1999. She is M.Phil and Ph.d in Mathematics and Dr. Basra is working as Associate Professor with the College.

6. It is the case of the petitioner that the post of Principal in College fell vacant when Dr. Rajiv Chopra was repatriated to his parent College (Sri Aurobindo College). As there was no Vice-Principal, the senior-most Teacher, who fulfils the minimum eligibility is to be appointed as Principal.

7. It is the case of the petitioner that Dr. Basra does not fulfil the qualifications for the post of Principal. A reference is made to Ordinance XVIII, Clause 7(3) of the University, which relates to appointment of acting Principal. The clause reads as under:

*“(3) In case of a casual vacancy in the office of the Principal, the Vice-Principal, if any, shall until the appointment of the Principal, act as the Principal. In case there is no Vice-Principal, **the senior most teacher shall act as Principal. The teacher so to act as Principal shall fulfill the minimum eligibility requirements for appointment as Principal of the College. Such temporary arrangements shall be made ordinarily for a period not exceeding six months and shall require the prior approval of the University**”.*

8. On May 24, 2020, the University's representative of the Governing Body of the College received a letter from University stating that the charge of the acting Principal be handed over to the senior-most teacher of the College. A reference is made to the seniority list issued by the College and a letter issued by the University representative of the Governing Body dated May 24, 2020 calling upon the petitioner to take charge as acting Principal of the college.

9. It is the stand of the petitioner that Dr. Rajiv Chopra had filed a writ petition being W.P.(C) 3266/2020 wherein he had challenged his repatriation to Sri Aurobindo College. The petitioner was arrayed as respondent No.4 in the said writ petition. The said writ petition was decided on July 6, 2020 whereby the Court had dismissed the writ petition.

10. It is stated that on November 26, 2020, the petitioner was

given an extension by the College till further orders. According to the petitioner, in the evening of December 16, 2020 when the petitioner left the College due to medical emergency, a telephonic call came from a non-teaching staff of the College stating that Dr. Basra entered the room of the Principal and sat on the chair. The petitioner was also informed that the existing locks were broken, her belongings removed from the room and new locks have been placed. In other words, Dr. Basra has taken over as the acting Principal of the College. The petitioner immediately rushed to the College premises whereby she found new locks have been placed after breaking over the locks. The petitioner made a call at 100 No. to call the police, who informed her that this is an internal matter of the College and they refused to help the petitioner who was stranded outside the College though a Principal.

11. It is her case that the Chairman of the Governing Body Sh. Hemant Vats without due process of law or approval of the University made Dr. Basra sit on the chair, which act is illegal and arbitrary and against the principle of natural justice.

12. The petitioner made a representation to the Pro-Vice-Chancellor, who is the acting Vice-Chancellor of the University and the Registrar of the University with a copy to the Dean of Colleges informing the grossly illegal take over as Principal in the College. Despite the same, no action has been taken by the University.

13. Suffice to state counter-affidavit has been filed by the College, Dr. Basra and the University. The stand of the said

respondents shall be dealt with under the heading submissions.

W.P.(C) 3684/2021

14. This petition has been filed by the petitioner with the following prayers:

“In view of the submissions made hereinabove and the facts and circumstances of the case it is most respectfully prayed that this Hon'ble Court may kindly be pleased to:

A. Issue a writ in the nature of mandamus or any other writ thereby directing the respondents to quashing the arbitrary and illegal orders dated 12.03.2021, 17.03.2021 & 18.03.2021 of appointment of the Respondent No. 3 as Permanent Principal of the Respondent No.2 / College and all other consequential letters;

B. Direct the respondent no.1 to re-advertise the post of Principal in Respondent No.2 in compliance of the order dated 22.11.2019 passed by this Hon'ble Court and;

C. Any other order or orders in favour of the Petitioner as this Hon'ble Court may deem fit & proper in the facts & circumstances of the present petition.”

15. Respondent No.1 in this petition is the University, respondent No.2 is the College and respondent No.3 is Dr. Rajiv Chopra ('Dr. Chopra', for short).

16. From the perusal of the prayer clause, it is seen that the challenge in the writ petition is to the decision / communications dated March 12, 2021, March 17, 2021 and March 18, 2021, whereby Dr. Chopra has been appointed as a permanent Principal of the College. The averments in this petition are, Dr. Chopra is an Associate Professor in the College, who does not fulfil the minimum qualification for appointment as Principal. The

College had issued an advertisement on April 27, 2017 for filling up the post of Principal in the College. The petitioner applied for the said post, on the basis of her fulfilling the academic performance index and she meeting the eligibility requirements under the Ordinance XVIII (7). A reference is made to a notice issued on June 21, 2018 with regard to the eligible candidates for the post of Principal, which reveals the name of the petitioner at Sl. No.1.

17. A writ petition being W.P.(C) 11279/2018 titled as Dr. Anju Gupta v. University of Delhi came to be filed by Dr. Anju Gupta stating that she was the selected candidate by the Apex Committee, through interview held on August 2, 2018 and she be given the joining letter for the post of Principal in the College on permanent basis. This court disposed of the said writ petition on November 28, 2018, wherein this court has directed respondents to fix a date of meeting of the Governing Body within three weeks from that date and thereafter to take a decision on the appointment within four weeks thereafter. It appears that an application was filed seeking clarification of order dated November 28, 2018. The said application came up for hearing on December 7, 2018 when this Court had directed the College to comply with the order dated November 28, 2018 strictly as per the provisions of Ordinance XVIII Clause 7 amended as on July 1, 2014. A reference is also made to a Contempt Petition filed before this Court for non-compliance of orders dated November 28, 2018 and December 7, 2018. It is stated by the petitioner that during the hearing in the Contempt Petition on May 30,

2019, the Minutes of the Selection Committee (Apex Committee) dated August 2, 2018 were opened whereby the name of Dr. Anju Gupta was declared as the selected candidate for appointment as the Principal of the College. This Apex Committee of the University is the higher and final authority for selection of the Principal. It transpires that the Governing Body of the College in its meeting dated February 6, 2019 unanimously decided not to accept the recommendations of the Apex Committee dated August 2, 2018 and re-advertise the post.

18. Dr. Anju Gupta challenged the decision of the Governing Body by filing a writ petition being W.P.(C) 12287/2019 seeking quashing of the letter dated February 8, 2019 and with a further direction that she be appointed as the Principal of the College. In the said writ petition Dr. Chopra was arrayed as respondent No.3. The writ petition was dismissed by this court by holding that there is no perversity seen in the impugned order. The Intra-Court Appeal filed by Dr. Gupta being LPA 35/2020 was later withdrawn by her.

19. It is the stand of the petitioner that the Judgment / Order dated November 21, 2019 of this Court in W.P.(C) 12287/2019 has attained finality having not been challenged by Dr. Chopra who was respondent No. 3 in the said writ petition. The selection process has to be undertaken afresh.

20. It is also the case of the petitioner that she has accepted the resolution of the Governing Body of the College dated February 6, 2019, whereby it has been resolved that a fresh

selection process be undertaken. In fact, I note Dr. Chopra has filed a writ petition being W.P.(C) 4521/2019, wherein he has sought appointment as a regular Principal in the College. The said writ petition was withdrawn by Dr. Chopra on March 19, 2021 on being informed about his appointment as Principal. It is the case of the petitioner that it is then she came to know that the University and the College have illegally overturned the decision of the Apex Committee of the University dated August 2, 2018 and the decision of the Governing Body dated February 6, 2019 and also in the teeth of the order passed by this Court on November 21, 2019 appointed Dr. Chopra, which shows utter disregard to the process of law as well as contempt of the decision of the Court.

21. It is also stated that Dr. Chopra who was working on deputation as OSD (Principal) in the College was repatriated to his parent College by the University and the challenge to that decision by Dr. Chopra was dismissed by this Court on July 6, 2020. The University has taken a stand that Dr. Chopra was not the selected / appointed candidate for the post of Principal, thus he was repatriated to his parent College on the ground that he was never selected / appointed. Rather a stand has been taken by the University that Dr. Chopra was not permanent and he has rightly been repatriated to his parent College.

22. In this writ petition counter-affidavits have been filed by the University, College and Dr. Chopra. The stand of the said respondents shall be dealt with under the heading submissions.

Submissions in W.P.(C) 10615/2020

23. Mr. Pritish Sabharwal, learned counsel appearing for the petitioner in this petition would submit that on May 24, 2020, the post of Principal fell vacant, when Dr. Chopra who was serving as OSD – Principal was repatriated to his parent College. There being no Vice-Principal in the College and as per the Ordinance, in case there is no Vice-Principal then the senior-most teacher who fulfils the minimum eligibility requirement need to be appointed as acting Principal, the petitioner was appointed as acting Principal of the College after prior approval of the Vice-Chancellor. After successful tenure of six months, the petitioner was asked to take charge as the officiating Principal of the College. It is primarily because if the arrangement exceeds six months, then acting Principal shall be designated as officiating Principal. He stated that the appointment of respondent No.3 is contrary to the Ordinance XVIII Clause 7(3)(c) as she does not fulfil the eligibility to be appointed as a Principal. She has never applied for the post of Principal. No approval of the University was taken by respondent No.2. The appointment is without any pre-screening and also without the approval of the Governing Body of the College. He stated that a teacher apart from being the senior-most should also fulfil the minimum eligibility qualification for the post of Principal. Reliance has been placed on the Judgment of the *University of Delhi v. Amarnath Jha, LPA 694/2016* and *Governing Body Swami Sraddhanand College. v. Amarnath Jha and Ors. 2020 (2) SCC 761*. Reference is also made to *Dr. Usha Puri v. Governing Body of*

Mahavidyalaya, University of Delhi 2000 (55) DRJ 99, wherein it is held for suspension also, appropriate approval of the Vice-Chancellor need to be taken. It is stated by Mr. Sabhaarwal that the appointment of the petitioner as officiating Principal w.e.f November 25, 2020 was until regular vacancy is filled. Admittedly no regular vacancy has been made and as such Dr. Basra could not have been appointed as acting Principal before a regular appointment can be made.

24. Mr. R.K. Anand, learned counsel appearing for the respondent No.2 College would submit that the post of Principal fell vacant on May 24, 2020 due to repatriation of Dr. Chopra to his parent College and since there was no Vice-Principal in the College, the Deputy Registrar, University of Delhi issued a letter dated May 24, 2020 to Professor Naveen Kumar, University representative in the College for temporarily handing over the charge of the Principal to the senior-most teacher of the College who fulfils the minimum eligibility criterion for appointment as the Principal of the College. The said letter categorically mentioned, the said temporary arrangement is till further orders, regulated by the provisions of the Ordinance of the University. According to Mr. Anand, Prof. Naveen Kumar issued a letter dated May 24, 2020 to the petitioner to take over the charge of acting Principal by treating her to be the senior-most teacher, despite the fact that it was Dr. Basra who is admittedly senior to the petitioner, as per the seniority list of College teachers.

25. According to Mr. Anand, since the petitioner was not the

senior-most teacher in the College, therefore, Dr. Basra wrote an e-mail to the Director, South Campus, Delhi University informing them that she is the senior-most eligible teacher in the college and was willing to offer her services for the said assignment. Accordingly, the College branch of the South Campus on November 24, 2020 wrote an e-mail to the Chairman of the Governing Body inter alia informing about the said e-mail. Based on the said e-mail, the Chairman of the Governing Body of the College re-examined the seniority of Dr. Basra vis-à-vis the petitioner and examined the eligibility criterion of the Principal as per the Ordinance and found that Dr. Basra was senior to the petitioner and also fulfil the criterion for being appointed as Principal and thus issued the impugned order dated December 16, 2020 whereby Dr. Basra was asked to join as Principal of the College instead of the petitioner. According to Mr. Anand, Dr. Basra took over the charge in place of the petitioner as the petitioner, was in terms of the letter dated May 24, 2020, appointed only on temporary basis after the authority found Dr. Basra was not the senior most and was not fulfilling the eligibility criterion for the post of Principal. Mr. Anand has also stated that the petitioner was not working in the interest of the College and had started new courses without taking approval of the UGC. He also stated this writ petition has become infructuous in view of the fact that the regular Principal has since been appointed, though the petitioner has challenged the appointment of the regular Principal in the connected writ petition. He has relied upon the Judgments in the case of *Mohd.*

Khan Durrany v. The Principal, 1970 (2) ILR 414 & Praduman Kumar Jain v. AIIMS 1972 (I) ILR 256.

26. In view of the above, Mr. Anand stated, the petition is without any merit and seeks its dismissal.

27. Mr. Hrishikesh Baruah, learned Counsel appearing for Dr. Basra would also contest the petition filed by the petitioner by stating that the petitioner is not eligible to be made as an acting Principal of the College. He relied upon the Ordinance XVIII Rule 7(3) to state that in case there is no Vice-Principal, it is the senior-most teacher who shall act as the Principal. In the absence of Vice-Principal, the senior-most teacher being Dr. Basra, she has rightly been made as an acting Principal. According to him, as per the seniority list produced by the petitioner herself, it is clear that Dr. Basra is at serial no. 6 with appointment date being September 26, 1988 and the petitioner being at serial no. 11 with her appointment date being August 29, 1999. He lays stress on the fact that the petitioner being herself not eligible for being appointed as acting Principal or for that matter officiating Principal, her appointment is in violation of the Ordinance and declared policy of the University. He also stated that the petitioner has suppressed material facts when she has asserted that she is a senior-most teacher of the College and annexed Annexure P-4 in support of her contention. The said Annexure shows that the petitioner is not the senior-most teacher. He has relied upon the Judgment of the Supreme Court in the case of ***Prestige Lights Limited v. State Bank of India 2007 (8)***

SCC 449 and Amar Singh v. Union of India 2011 (1) SCC 694.

28. According to him, the College itself in its counter-affidavit stated that Dr. Basra possesses the minimum eligibility criterion for the post of Principal. That apart, he highlighted the fact that as per the Ordinance, the minimum qualification for the appointment of Principal and Professor being (1) Ph.d Degree; (2) Professor / Associate Professor with total service / experience of at least 15 years of experience / research in Universities, Colleges and other institutions in higher education; (3) a minimum of 10 research publication in peer review or UGC listed journals; (4) a minimum of 110 research score as per Appendix-II Table-II. He stated that if the aforesaid eligibility is examined with regard to Dr. Basra, she is a Ph.d Degree Holder since the year 2000. She is having teaching experience since 1985 and is a permanent lecturer since September 26, 1988, i.e., more than 32 years of experience. She has published 6 books, 26 articles, 14 papers in various national and international journals. Her research score is 62 for books, score of 71 for articles, score of 280 for papers in general, score of 10 for projects completed and score of 142 for conferences / workshops and seminars.

29. He also stated that the petitioner has no right to continue as acting Principal and later as officiating Principal. He relied on the Judgment in the case of ***Purushottam Lal Dhingra v. Union of India 1958 SCR 828***. He also refers to ***Dr. Ashok Mittal. v. University of Delhi 1995 SCC Online 722*** to contend that a person holding a temporary arrangement has no substantive right.

He also referred to the Judgment in the case of ***Dr. Rajiv Chopra v. University of Delhi and Ors.*** dated July 6, 2020. In the last, he stated that this petition has become infructuous inasmuch as Dr. Chopra has now been appointed as permanent Principal vide letter dated March 18, 2021, which has been challenged by the petitioner herself in different writ petition. He seeks the dismissal of the writ petition.

30. Mr. A. Mariarputham, learned Sr. Counsel appearing for the respondent University of Delhi in this petition would submit that Dr. Basra is senior to the petitioner and she also fulfils the eligibility requirement and the College is within its right to correct the mistake occurred earlier in appointing the petitioner as acting Principal. In any case, according to him, the interim arrangement is subject to and till a regular Principal is appointed and Dr. Chopra having been appointed, this petition needs to be dismissed.

Submissions in W.P.(C) 3684/2021

31. It was the submission of Mr. A.K. Behra, learned Sr. Counsel appearing for the petitioner in this petition, that the petitioner is a highly qualified Professor in the College. While the petitioner was serving as Associate professor in the College, she was made acting Principal and thereafter officiating Principal w.e.f May 24, 2020 and November 25, 2020 respectively. According to him, her appointment as acting Principal is pursuant to the approval granted by the Vice-Chancellor of the University. As the petitioner was sought to be dislodged as the officiating

Principal, she had filed the writ petition being W.P.(C) 10615/2020 and this Court had passed an order of *status quo* ante to continue the petitioner as officiating Principal and since then she has been discharging her duties as officiating Principal. According to him, the respondent No.3, Dr. Chopra had worked as OSD-Principal in the College, though such appointment is only for a period of six months, but he had continued for almost short of 7 years. He stated that even after the appointment of Dr. Anju Gupta, the respondent No.3 continued as OSD in the College. That apart, he stated that in terms of Ordinance XVIII Clause 7(2), it is clear that the appointment of Principal shall be made by the Governing Body of the College on the recommendation of Selection Committee consisting of the Chairman of the Governing Body (Chairman), one member of the Governing Body to be nominated by the Chairman, two nominees of the Vice-Chancellor, out of whom one should be an expert, three experts consisting of the Principal of a College, a Professor and an accomplished educationist, not below the rank of a Professor, provided that prior to final selection and appointment (a) the Governing Body shall submit to the University a list of persons who have applied for the post of Principal as also the names of persons who may not have applied, but whose names, the Governing Body may desire to consider for the post in a Form as prescribed by the University and shall indicate the persons, from whom, in their opinion the final selection may be made. According to Mr. Behra, there are no words '*in the order of merit*'; (b) the list as submitted by the Governing Body shall be

considered by a selection committee constituted for the purpose and consisting of the following:

1. Vice-Chancellor
2. Pro Vice-Chancellor
3. A nominee of the Visitor
4. Chairman of the Governing Body of the College concerned, and
5. Two members of the Executive Council nominated by it.

(c) on the recommendation of the Selection Committee (Apex Committee), the University shall transmit to Governing Body a list of persons, mentioned in the order of preference, whom the University would be prepared to recognize as Principal or if none of the applicants are considered suitable shall refrain from sending a list, in which case, the post shall be re-advertised. According to Mr. Behra the University has adopted the Regulations of the UGC. The astrix in Ordinance XVIII Clause 7(2) states, University has adopted the UGC regulations in terms of the letter addressed by the Ministry of Human Resource Development, Govt. of India vide communication in the year 2002. The mandate of the UGC is to suggest the minimum qualifications, which are required by Professor / Associate Professor / Assistant Professor in Universities in India. He stated, the title itself suggest the object of the UGC Regulations. According to him, the UGC had formulated regulations and had written to the University to form a selection

panel and implement the minimum qualifications for appointment as per UGC Guidelines in case of appointment of Principal. The exact selection panel was incorporated in the Ordinance XVIII Clause 7(2)(c) by the University. The Regulations of the UGC were notified in 2010. It is stated that the selection panel as suggested by the UGC in 1998 remain same and there was no amendment in the provisions for selection panel which has been duly incorporated in Ordinance XVIII Rule 7(3)(c).

32. In substance, it was the submission of Mr. Behra that on a perusal of Ordinance XVIII of the University, it is clear that the appointment of the Principal shall be made by the Governing Body on the recommendation of a Selection Committee. The Selection Committee is a separate committee from the Governing Body, whose head is the Chairman of the Governing Body, three experts including a College Principal, a Professor and the Rule prescribes that the Vice-Chancellor of respondent No.1 has to approve the experts in the said Committee at the first selection level. Therefore, there is a substantial role of the Vice-Chancellor of the University of Delhi in nominating members in the First Selection Committee at the College level. He stated, a proper interview is conducted by the First Selection Committee and then the panel of names are sent to the University for the final selection by Apex Committee. According to him, except the Chairman of the Governing Body, there is no other member of the Governing Body that has any role to play in the First Selection Committee. On further

scrutiny, the Ordinance uses the word Governing Body may desire to consider for the post in a form as prescribed by the University and shall indicate the persons from whom, in their opinion, the final selection may be made. Therefore, it was his submission, the final selection has to be made by the University. The final selection has to be by the Apex Committee. Thereafter, the University of Delhi sends the name to the Governing Body for declaration of the result. He placed reliance on Annexure P-1/A filed along with the rejoinder which is a reply to the RTI application. In support of his submission, he has relied upon the Judgment in the case of *Shyamlal College v. Vice-Chancellor, Delhi University, 2006 (89) DRJ 667*; *Dr. Manaswini M. Yogi v. Chairman, Governing Body, I.P. College, 2009 (2) SLR 328* and *Governing Body of Hindu College v. Ratan Lal LPA No. 727/2018*.

33. It was also his submission that the writ petition filed by Dr. Anju Gupta against the decision to scrap the process of appointment and re-advertise the post of Principal in its meeting dated February 6, 2019 having been dismissed, the decision has attained finality. That apart, he stated that respondent No.3 had also applied and participated in the interview process. Pursuant thereto three names, not in order of merit, which included the name of Dr. Chopra was sent to the University. The Apex Committee headed by the Vice-Chancellor deliberated on the names and had also called the candidates for the interview. Respondent No.3 Dr. Chopra participated in the interview process. The Apex Committee has recommended the name of

Dr. Anju Gupta. In other words, Dr. Chopra was not selected. There is no practice where a decision of the Apex Committee can be reviewed. He also stated that office record from the University be called to see that last 15 appointments of Principals of various Colleges of the University whereby only one name is decided by the University and the said person is appointed as a Principal. Respondent No.3 being unsuccessful in the interview held by the Apex Committee and the fact that name of Dr. Anju Gupta was recommended, she has not been appointed and rightly so as now a decision has been taken on February 6, 2019 to scrap the selection and to issue a fresh advertisement. Even Dr. Anju Gupta cannot make a claim for the post of Principal on regular basis as she has been unsuccessful in her litigation. Appropriate is to give effect to the resolution of the Governing Body for issuing fresh advertisement for filling up the post of Principal. According to him, impugned orders are illegal and liable to be set aside and the process of appointment of Principal in terms of decision dated February 6, 2019 needs to be taken forward. He seeks the prayers as made in the writ petition.

34. Mr. Ankur Chibber, learned counsel appearing for the respondent College would apart from highlighting certain facts, which have already been noted above, submit that the appointment of Principal in various Colleges of University of Delhi is governed and guided by the provisions of Ordinance XVIII Clause 7 of the University. Based on which duly constituted Selection Committee as per UGC regulations and

approved by the University was held on July 13, 2018. The said Committee had approved the following three candidates in the order of merit excluding the name of the petitioner, who though was one of the candidates, but was not recommended:

1. Dr. Rajiv Chopra
2. Dr. Basukinath Chowdhury
3. Dr. Anju Gupta.

35. The selection of the aforesaid candidates was done by the Selection Committee, which was duly signed by all the Members and sent to the University for its necessary approval, who held a meeting on August 2, 2018 ignoring the order of merit, recommended by the Selection Committee without assigning any reason and recommended the appointment of Dr. Anju Gupta.

36. The Governing Body in disagreement with the recommendations dated August 2, 2018 passed a resolution dated February 6, 2019 whereby it was decided to advertise the post of the Principal afresh as per UGC Regulations.

37. Aggrieved by the decision, not only Dr. Chopra filed a writ petition bearing W.P.(C) 4521/2019 challenging the order dated August 2, 2018 passed by the University, but even Dr. Anju Gupta had filed a writ petition bearing No. 12287/2019 for quashing of the order dated February 8, 2019, whereby, she was informed that entire selection process to the post of Principal in the College was sought to be re-advertised. According to Mr.

Chibber, the latter writ petition was dismissed by this Court vide order dated November 21, 2019. Dr. Anju Gupta had filed an LPA before the Division Bench of this Court, which was subsequently withdrawn.

38. He stated that in so far as the writ petition filed by Dr. Chopra is concerned, the UGC had filed an affidavit in the same based on which the University vide its Office Note dated December 2, 2020 had submitted that it shall abide by the UGC Regulations with respect to appointment of Dr. Chopra. Moreover, even Dr. Anju Gupta filed an affidavit to the effect that she has no interest in contesting the said writ petition. According to Mr. Chibber, there is no challenge in the original or amended writ petition to the recommendations dated July 13, 2018 made by the Selection Committee, wherein Dr. Chopra was placed at serial No.1, which eventually was approved by the University. He lays stress on the fact that in view of the stand of the UGC as well as the University, the Governing Body of the College reconsidered its earlier decision dated February 6, 2019 and passed a new resolution on March 12, 2021 whereby it was decided to appoint Dr. Chopra as Principal of the College with immediate effect. He stated that based on the above resolution dated March 12, 2021, the Apex Committee also reviewed its recommendations dated August 2, 2018 and March 17, 2021 recommended (1) Dr. Rajiv Chopra; (2) Dr. Basukinath Chowdhury; and (3) Dr. Anju Gupta as Principal of the College in order of preference and thus on March 18, 2021 an order for appointment was issued.

39. According to Mr. Chibber, though the Governing Body of the College had taken a decision to re-advertise the post of Principal, however, this court did not give any direction to the College to that effect, but instead dismissed the writ petition filed by Dr. Anju Gupta on the ground that no vested right of the petitioner has been taken away. In other words, it is his submission that there is no embargo on the Governing Body of the College to re-consider its earlier decision. The new resolution dated March 12, 2021 has been duly approved by University on March 17, 2021. Moreover, the decision to re-advertise the post is purely administrative in nature and therefore can be reviewed at any time. He seeks the dismissal of the writ petition.

40. Mr. Sudhir Nandrajog, learned Sr. Counsel as briefed by Mr. Anand Nandan, Adv. appearing for respondent No.3 Dr. Rajiv Chopra would submit that the petitioner is admittedly an acting / officiating Principal of the College, whose period of appointment has been over long back. Under the guise of the present petition, the petitioner is seeking continuation in the office of Principal as acting / officiating Principal of the College. According to Mr. Nandrajog, Dr. Chopra had also applied for appointment to the post of Principal on regular basis. Vide letter dated July 6, 2018, the College had called Dr. Chopra, for an interview by the duly constituted Selection Committee. The UGC Regulation provides for only one Selection Committee for making appointment to the post of Principal. He stated that the University of Delhi vide its

Ordinance XVIII follows the same composition for the Selection Committee of Principal in its colleges. However, another clause in this Ordinance also provides for University level committee which would give recognition to the name (s) recommended by the Selection Committee. According to Mr. Nandrajog, Clause 7 of Ordinance XVIII of the University relates to Colleges other than those maintained by Govt. of India. This Ordinance vide Clause 7(2)(a) provides that the appointment of the Principal shall be made by the Governing Body of the College on the recommendation of Selection Committee consisting of persons mentioned therein.

41. That in terms of the advertisement, API point summary is to be prepared for the post of a Principal in University. The API point summary is to be screened / verified by the University. As per the summary provided by the University, Dr. Chopra secured highest API scores, i.e., 594 points amongst the candidates who appeared before the Selection Committee. The petitioner had secured 434 API points nullifying her statement that she possessed the highest API score since her name appeared on the top of the list. The names of the candidates in the API list provided by the University were arranged in an ascending order as per the application form numbers. He stated that Dr. Chopra was placed at serial No.1 of the merit and the names of the other candidates, i.e., Dr. Chowdhury and Dr. Anju Gupta were placed at serial Nos. 2 and 3 in the order of merit as waitlisted candidates. According to him, Dr. Anuradha Gupta, the petitioner was not found suitable. The Governing

Body of the College in its meeting held on July 13, 2018 approved the recommendation of the Selection Committee, i.e., appointing Dr. Chopra to the post of Principal and forwarded the names in order of merit to the University for favour of recognition. Dr. Chopra was informed to appear before the University level Selection Committee on August 2, 2018. Dr. Anju Gupta, who was at serial No. 3 in the order of merit in the selection list, was recognized as Principal and the only name was forwarded to College. According to Mr. Nandrajog, this was not only against the provisions of the UGC Regulations but also against the provisions of the University Ordinance since no reason was assigned for not recognizing the selected candidate, i.e., Dr. Chopra and without giving any preference to the candidates as required under the Ordinance of the University. Mr. Nandrajog had referred to the writ petition filed by Dr. Anju Gupta being W.P.(C) 12287/2019 without involving the UGC. She had prayed for her appointment as Principal on the recommendation of the Apex Committee held on August 2, 2018. He also referred to the meeting of the Governing Body held on February 6, 2019 wherein it was decided to advertise the said post, which was contrary to the provisions of the Ordinance as it is only the University that can seek re-advertisement of the post after scrapping of list of selected and waitlisted candidates. He stated that the decision of the University dated August 2, 2018 was totally arbitrary and contrary to Clause 7 (2)(b) of Ordinance XVIII. According to him, the decision of the University is also contrary to the UGC Regulations of 2010 as

well as of 2018. In fact, he lays stress on the fact that Dr. Chopra has filed a writ petition being W.P.(C) 4521/2019 before this Court in which he sought main relief to implement the UGC Regulations in totality in his appointment as he was selected candidate in the Selection Committee held on July 13, 2018. He also lays stress on the counter-affidavit filed by the UGC, more specifically Para 12, 14 and 15, wherein it is stated that the interviews held by the Apex Committee on August 2, 2018 are not in terms of the Regulations issued by the UGC. Mr. Nandrajog has also stated that on December 2, 2020, the University took a decision which super-imposed all the earlier decisions inter alia concluding that UGC Regulations shall be followed in the case of appointment of Principal in the College and based on the decision, the University gave an undertaking before this Court on December 24, 2020. Therefore, the decision of the Governing Body to re-advertise the post was superseded by the subsequent decision of the University in the case of appointment of Dr. Chopra on the post of the Principal.

42. He stated that the reliance placed by Mr. Behra on the order dated November 21, 2019 passed by this Court, in which, the order of the Governing Body for re-advertisement has been upheld, as misconceived. According to him, the Governing Body of the College functions under the Ordinances of the University. As per Clause 7(2) of the Ordinance XVIII of the University, the Vice-Chancellor may in his opinion take a decision not to go with the view of the Governing Body but in that case, the Governing Body will be at liberty to chose the

candidates from the list of the candidates already before it. In any case, according to Mr. Nandrajog, the decision of the Governing Body to re-advertise has not been accepted by the University and in view of affidavit filed by UGC dated July 26, 2019, the Governing Body reviewed its decision and decided to recognize Dr. Chopra as the permanent Principal. He stated that there is no illegality in the appointment of Dr. Chopra as the Principal of the College. He seeks the dismissal of the writ petition.

43. Mr. A. Mariarputham, learned Sr. Counsel appearing for the respondent University of Delhi makes similar submissions as made by Mr. Nandrajog. He stated that the appointment of Dr. Chopra as the Principal of the College does not call for any interference. In fact, he has challenged the locus of the petitioner to challenge the selection and appointment. Merely, the petitioner was acting / officiating Principal does not give her locus to challenge the appointment. He stated that the petitioner was one of the candidates for the post, but was not recommended for appointment. As such she has no locus.

44. It is also stated by Mr. Mariarputham that it is not the case of the petitioner that the respondent No.3 does not possess required qualifications or he is ineligible or not suitable for any reason. That apart, he stated that there is no challenge in the original or the amended petition to the recommendation of the Selection Committee dated July 13, 2018, wherein Dr. Chopra was placed at merit position No.1, which was eventually

approved by the University. He lays stress on the fact that the Governing Body, no doubt, had taken a decision to re-advertise the post on February 6, 2019, but according to him it is permissible for the Governing Body to review its decision to ensure that the action for making appointment to the post of Principal is in accordance with the Ordinance of the University. In this regard, he has relied upon the Judgment in the case of ***R.R. Verma & Ors. v. Union of India & Ors. 1980 (3) SCC 402***. The plea that the College having taken a decision to re-advertise the post cannot be seen in isolation but by considering all the facts and the position under the regulations as stated by the UGC, which regulates the same. Concedingly, Dr. Chopra was at serial No. 1 in the merit recommended by the Governing Body and the University having reviewed its earlier decision dated August 2, 2018 and accepting the recommendations of the Selection Committee dated July 13, 2018 bringing the action of the University in conformity with the Ordinances, the appointment of Dr. Chopra is justified. He seeks the dismissal of the writ petition.

CONCLUSION

45. Having heard the Id. Counsel for the parties and perused the record, these two writ petitions, filed by the same petitioner, involves challenge to the appointment of Dr. Basra and Dr. Chopra as acting Principal and Principal on permanent basis respectively. As the outcome of W.P.(C) 3684/2021 which relates to the appointment of Dr. Chopra as permanent Principal shall have a bearing on the outcome of the W.P.(C) 10615/2020

and it is also the plea of some of the counsels that in view of the impugned decision / communications dated March 12, 2021, March 17, 2021 and March 18, 2021 in W.P.(C) 3684/2021, the W.P.(C) 10615/2020 has become infructuous, I deem it appropriate to decide W.P.(C) 3684/2021 first.

46. The facts as noted from the writ petitions are that in the year 2013, Dr. Chopra was appointed as OSD-Principal. On April 27, 2017, with a view to fill the post of Principal in the College on permanent basis, an advertisement was issued. The petitioner and Dr. Chopra had applied for the same. The Selection Committee headed by the Chairman of the Governing Body of the College, recommended a panel of three names as noted in Para 34 above.

47. It is the case of the college that the names recommended are in the order of merit. Pursuant thereto, the names were sent to the University for approval. The University through Apex Committee held a meeting on August 2, 2018 wherein the recommended candidates appeared for interaction. The Apex Committee recommended the name of Dr. Anju Gupta to be appointed as Principal of the College. It appears that the Governing Body of the College did not accept the recommendation of the Apex Committee on the ground that the said Committee has neither communicated its decision in the order of preference nor it gave its detailed reasoning about the change in the order of merit. The Governing Body also decided to re-advertise the post of Principal as per UGC (Minimum

Qualification for Appointment of Teachers and Other Academic Staffs in Universities and Colleges and Other Measures for Maintenance of Standards Higher Education) Regulations, 2018. Suffice to state that Dr. Chopra and Dr. Anju Gupta had filed petitions being W.P.(C) Nos. 4521/2019 and 12287/2019 respectively in this Court, wherein Dr. Chopra had challenged the decision dated August 2, 2018 of the Apex Committee appointing Dr. Anju Gupta as Principal of the College, whereas Dr. Anju Gupta had challenged the decision of the Governing Body of the College dated February 6, 2019 not to accept the recommendation of the Apex Committee and to re-advertise the post of Principal. The W.P.(C) 12287/2019 filed by Dr. Anju Gupta was dismissed by this Court on November 21, 2019 as unmerited and upheld the decision of the Governing Body of the college dated February 6, 2019. Dr. Anju Gupta had filed an intra-court appeal against the order dated November 21, 2019, but later withdrew the same. Even Dr. Chopra on being informed about the issuance of order dated March 18, 2021 appointing him as the Principal has withdrawn W.P.(C) 4521/2019 on March 19, 2021.

48. Having noted the relevant facts, the submissions of Mr. Behra for the petitioner in W.P.(C) 3684/2021 can be summed up as under:

1. Dr. Chopra had also applied for the post of Principal of the College.
2. Dr. Chopra had also participated in the final selection process before the Apex Committee headed by the Vice-

Chancellor of the University.

3. The Apex Committee has given its assent for appointment of Dr. Anju Gupta and not Dr. Chopra.
4. The Governing Body of the College held a meeting on February 6, 2019 wherein it was decided not to accept the decision of the Apex Committee and to re-advertise the post of Principal.
5. The College is required to advertise the post as per its decision dated February 6, 2019.
6. The challenge of Dr. Anju Gupta to the decision of the Governing Body dated February 6, 2019 was rejected by this Court. Even the withdrawal of LPA reveals that the decision of the Governing Body has been upheld.
7. Even in the writ petition filed by Dr. Chopra, he has sought implementation of resolution dated February 6, 2019 for re-advertisement.
8. That on May 24, 2020, Dr. Chopra who was working on deputation as OSD-Principal was repatriated to his parent college and even the challenge of Dr. Chopra in W.P.(C) 3266/2020 wherein a stand was taken by the College that Dr. Chopra is not appointed as permanent Principal of the College.
9. The decision / communications dated March 12, 2021, March 17, 2021 and March 18, 2021 to appoint Dr. Chopra as regular Principal is illegal and could not have been done after the decision dated February 6, 2019 has been upheld.

49. He also stated, never in the past, ever any review of the decision of the Apex Committee has taken place and that the Ordinance does not provide any power to review.

50. The issue that arises for consideration is whether the decision of the Governing Body dated March 12, 2021 appointing Dr. Chopra as the Principal of the college; communication of the University dated March 17, 2021 whereby it has reviewed its recommendation dated August 2, 2018 and order dated March 18, 2021 appointing Dr. Chopra as the Principal of the College, are justified.

51. The plea of Mr. Behra was that the Governing Body of the College having taken a decision on February 6, 2019 not to accept the recommendation of the University dated August 2, 2018 and to re-advertise the post of Principal and challenge thereof by Dr. Anju Gupta having been rejected by this Court and LPA withdrawn by her, the College under the guise of review cannot appoint Dr. Chopra as Principal is appealing on a first blush but on a deeper consideration, the fact that Dr. Chopra had also challenged the decision of the Apex Committee dated August 2, 2018 in W.P.(C) 4521/2019 seeking his appointment, wherein the UGC in its affidavit has stated that the process of selection evolved by the Apex Committee is not in consonance with the Regulations of 2010, cannot be overlooked. The affidavit reads as under:

“12. That it is further respectfully submitted that the UGC Regulations, though a sub-ordinate legislation, once notified becomes part of an Act and the same has the force of law and are not dependent upon any adoption or no adoption by any State Government. They are statutorily and mandatorily to be followed by all the Universities as stipulated under the regulations itself.

13. That it is further most humbly stated that the UGC again came up with 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) (4th Amendment Regulations), Regulation, 2016 whereby the apart from other clauses, Clause 5.1.6(d) was amended and it now read as:-

5.1.6(d) : The term of appointment of the College Principal shall be five years with eligibility for reappointment for one more term only after a similar Selection Committee process which shall take into account an external peer review, its recommendations and its outcomes. The framework of the external peer review shall be specified by the UGC.

A copy of the relevant extract of the 2016 Regulations is annexed and marked as **Annexure R-2**.

14. That, it is further most respectfully stated and submitted that it has been held by a number of judgments by the Hon'ble Supreme Court that the UGC Regulations being passed by both the Houses of Parliament, though a subordinate legislation has a binding effect on the Universities to which it applies. Moreover, the Hon'ble Supreme Court in one of its judgments have also held that 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 the UGC.

15. That, as far the instant writ petition is concerned, it is humbly submitted that the petitioner had applied to the said post and was directed to appear before the Selection Committee by letter dated 06.07.2018 and thereafter was again interviewed by another Selection

Committee on 02.08.2018 which is not in consonance with the Regulations as has been stated hereinbefore.”

52. It is true that the decision dated February 6, 2019 as communicated to Dr. Anju Gupta on February 8, 2019 was challenged by her and the petition was dismissed on November 21, 2019 and LPA withdrawn but the challenge of Dr. Chopra being pending in W.P.(C) 4521/2019, it cannot be said that the decision dated February 6, 2019, for re-advertisement has attained finality.

53. In any case decision taken by the Governing Body on February 6, 2019 was only to accept the recommendation of the Apex Committee and further to re-advertise the post is an administrative decision. An administrative decision unlike a *quasi-judicial* decision can be revisited / reviewed by the same authority, more so, if the earlier decision is based on an incorrect understanding of law / rule / statutory regulation. In **R.R. Verma** (*supra*) it is thus held:

“5. The last point raised by Shri Garg was that the Central Government had no power to review its earlier orders as the rules do not vest the government with any such power. Shri Garg relied on certain decisions of this Court in support of his submission: Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji [(1971) 3 SCC 844 : AIR 1970 SC 1273] ; D.N. Roy v. State of Bihar [(1971) 3 SCC 844 : (1971) 3 SCC 844 : (1971) 2 SCR 522] and State of Assam v. J.N. Roy Biswas [(1976) 1 SCC 234 : 1976 SCC (L&S) 10 : AIR 1975 SC 2277 : (1976) 2 SCR 128] . All the cases cited by Shri Garg are cases where the government was exercising quasi-judicial power vested in them by

statute. We do not think that the principle that the power to review must be conferred by statute either specifically or by necessary implication is applicable to decisions purely of an administrative nature. To extend the principle to pure administrative decisions would indeed lead to untoward and startling results. Surely, any government must be free to alter its policy or its decision in administrative matters. If they are to carry on their daily administration they cannot be hidebound by the rules and restrictions of judicial procedure though of course they are bound to obey all statutory requirements and also observe the principles of natural justice where rights of parties may be affected. Here again, we emphasise that if administrative decisions are reviewed, the decisions taken after review are subject to judicial review on all grounds on which an administrative decision may be questioned in a court. We see no force in this submission of the learned Counsel. The appeal is, therefore, dismissed

(emphasis supplied)

54. Having said that, as noted from the affidavit of UGC, which I have reproduced above, the UGC has made a reference to the Regulations of 2010 relating to appointment of Teachers and other Academic Staff. In so far as regulations relating to appointment of Principal is concerned, the same read as under:

UGC REGULATIONS OF 2010

4.2.0. PRINCIPAL

i. *A Master's Decree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) by a recognized University.*

ii. A. Ph.D. Degree in concerned / allied / relevant discipline (s) in the institution concerned with evidence of published work and research guidance.

iii. Associate Professor / Professor with a total experience of fifteen years of teaching / research / administration in Universities, Colleges and other institutions of higher education.

iv. A minimum score as stipulated in the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS), as set out in this Regulation in Appendix III for direct recruitment of Professor in Colleges.

(SELECTON COMMITTEE)

5.1.6 College Principal

(a) The Selection Committee for the post of College Principal shall have the following composition:

1. Chairperson of the Governing Body as Chairperson.
2. Two members of the Governing Body of the College to be nominated by the Chairperson of whom one shall be an expert in academic administration.
3. One nominee of the Vice-Chancellor who shall be a Higher Education expert. In case of Colleges notified / declared as minority

educational institutions, one nominee of the Chairperson of the College from out of a panel of five names, preferably from minority communities, recommended by the Vice-Chancellor of the affiliating University of whom one should be a subject expert.

4. *Three experts consisting of the Principal of a college, a Professor and an accomplished educationist not below the rank of a Professor (to be nominated by the Governing Body of the college) out of a panel of six experts approved by the relevant statutory body of the university concerned. An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of the candidates representing these categories is the applicant, to be nominated by the Vice-Chancellor, if any of the above members of the selection committee do not belong to that category.*

(b) At least five members, including two experts, should constitute the quorum.

(c) All the selection procedures of the selection committee shall be completed on the day of the selection committee meeting itself, wherein, minutes are recorded along with the scoring proforma and recommendation

made on the basis of merit with the list of selected and waitlisted candidates / Panel of names in order of merit, duly signed by all members of the selection committee.

(d) The term of appointment of the College Principal shall be FIVE years with eligibility for reappointment for one more term only after the similar selection committee process.

55. During the course of hearing a reference is made to the Regulations of 2018, (notified on August 13, 2018), the same shall not be applicable to this selection process as it was initiated on April 27, 2018 (before notification) and the Selection Committee meeting was also held on July 13, 2018. In any case the same shall not have any bearing on the issue. I reproduce the Regulation of 2018 in respect of Selection Committee asunder under:

VIII. College Principal and Professor

A. Selection Committee

(a) The Selection Committee for the post of College Principal and Professor shall have the following composition:

i) Chairperson of the Governing Body to be the Chairperson.

ii) Two members of the Governing Body of the college to be nominated by the Chairperson

of whom one shall be an expert in academic administration.

iii) Two nominees of the Vice-Chancellor who shall be Higher Education experts in the subject/field concerned out of which at least one shall be a person not connected in any manner with the affiliating University. In case of Colleges notified/declared as minority educational institutions, one nominee of the Chairperson of the College from out of a panel of five names, preferably from minority communities, recommended by the Vice-Chancellor of the affiliating university of whom one should be a subject expert.

iv) Three Higher Education experts consisting of the Principal of a College, a Professor and an accomplished educationist not below the rank of a Professor (to be nominated by the Governing Body of the college out of a panel of six experts approved by the relevant statutory body of the university concerned).

v) An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories is the applicant, to be nominated by the Vice-Chancellor, if

any of the above members of the selection committee does not belong to that category.

vi) Two subject-experts not connected with the college to be nominated by the Chairperson of the governing body of the college out of a panel of five names recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the university concerned. In case of colleges notified/declared as minority educational institutions, two subject experts not connected with the University nominated by the Chairperson of the College governing body out of the panel of five names, preferably from minority communities, recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body.

(b) Five members, including two experts, shall constitute the quorum.

(c) All the selection procedures of the selection committee shall be completed on the day/last day of the selection committee meeting itself, wherein, minutes are recorded along with the scoring Proforma and recommendation made on the basis of

merit with the list of selected and waitlisted candidates/Panel of names in order of merit, duly signed by all members of the selection committee.

(d) The term of appointment of the College Principal shall be five years, with eligibility for reappointment for one more term only after an assessment by a Committee appointed by the University as per the composition given in sub-clause (B) of 5.1 (VIII).

(e) After the completion of his/her term as Principal, the incumbent shall join back his/her parent organization with the designation as Professor and in the grade of the Professor.

56. As a comparison was made, between the UGC Regulations and Ordinance, it is necessary to reproduce the relevant provision of Ordinance as well, i.e., Ordinance XVIII Clause 7(2).

PROVISION	PARTICULARS
Ordinance XVIII Clause 7 Rule 2 {Annexure A-16, Page 328 of the Amendment Application}	“(2) The appointment of the Principal shall be made by the Governing Body of the College on the recommendation of a Selection Committee* <u>(*Modified to bring them in Ordinance with UGC regulations vide letter no.F.3-1/2000(PS) dt. 4.4.2000 as directed by the Hon’ble Visitor vide MHRD letter no. F.4- 22/2002-(Desk) (U dt. 7.1.2004)</u> consisting of [1st Selection committee] The Chairman of the Governing Body (Chairman), one

	<i>member of the Governing Body to be nominated by the Chairman, two nominees of the Vice-Chancellor, out of whom one should be an expert, three experts consisting of the Principal of a College, a Professor and an accomplished educationist not below the rank of a Professor (to be nominated by the Governing Body) out of a panel of experts approved by the Vice-Chancellor (At least four members, including two experts, should constitute the quorum), provided that prior to final selection and appointment</i> <i>(a) the Governing Body shall submit to the University a list of persons who have applied for the post of Principal, as also names of persons, who may not have applied but whose names the Governing Body may desire to consider for the post, in a form as prescribed by the University and shall indicate the persons from whom, in their opinion, the final selection may be made; [There is no word as ‘in order of Merit’]</i> [2nd Selection committee / Apex Committee] <i>(b) the list thus submitted by the Governing Body shall be considered by a Selection Committee constituted for the purpose and consisting of the following: (i) Vice-Chancellor, (ii) Pro-Vice-Chancellor, (iii) A nominee of the Visitor; (iv) Chairman of the Governing Body of the College concerned; and (v) Two members of the Executive Council, nominated by it; and</i>
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	(c) on the recommendation of the Selection Committee the University shall transmit to Governing Body a list of persons mentioned in the order of preference whom the University would be prepared to recognise as Principal or, if none of the applicants are considered suitable, shall refrain from sending a list, in which case the post shall be re-advertised. {Annexure A-16- Page-328 of the Amended Writ Petition}
Clause 3.0.0- UGC Regulations on Minimum Qualifications for Appointment of Teachers, and Academic Staff in Universities and Colleges and measures for the maintenance of Standards in Higher Education, 2010	▪ Sub-clause 3.1.0 <i>The direct recruitment to the posts of Assistant Professor, Associate Professor and Professor in the Universities and Colleges, and Senior Professor in the Universities, shall be on the basis of merit through an all-India advertisement, followed by selection by a duly-constituted Selection Committee as per the provisions made under these Regulations. <u>THESE PROVISIONS SHALL BE INCORPORATED IN THE STATUTES / ORDINANCES OF THE UNIVERSITY CONCERNED.</u> The composition of such a committee shall be as specified in these Regulations.”</i> {Annexure A-11- Page-212, of the Amended Writ Petition, Clause 3.1.0 on Page 212} ▪ Sub-clause 4.2.0: PRINCIPAL <i>iii) Associate Professor/Professor with a total experience of 15 years teaching/ research/ administration in Universities, Colleges, and other institutions of higher education.</i> {Annexure A-11- Page-212, of the

	<i>Amendment Application, Clause 4.2.0 on Page 214}</i>
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57. The difference in the procedure under the Regulations and the Ordinance for selecting Principal is that the Regulations of 2010 do not stipulate the selection process through the Apex Committee (Second Committee) of the University. It contemplates one Selection Committee at the College level, the composition of which has already been noted above.

58. The plea of Mr. Behra was, the astringent in Ordinance depicts, University has adopted UGC Regulations in terms of letter of Ministry of Human Resource Development, Government of India of 2002 dated January 7, 2004 and the same contemplates selection of Principal through apex committee as well and the apex committee having not recommended Dr. Chopra as Principal, he cannot be appointed so. This plea is not tenable in view of Regulations of 2010 reproduced above, which admittedly have been notified much after 2004, without including therein what has been stated in Ordinance about the apex committee.

59. The position under regulations is reiterated by the UGC in its affidavit in W.P.(C) 4521/2019, wherein it stated *“thereafter was again interviewed by another Selection Committee on August 2, 2018, which is not in consonance with the Regulations as has been stated herein before”*. Based on the affidavit, the University has also submitted a note that it shall abide by the UGC Regulations with respect to

appointment of Dr. Chopra. So, the Governing Body is justified to review its decision dated February 6, 2019 and appoint Dr. Chopra as the Principal of the College.

60. That apart, I am also of the view that the petitioner has no *locus* to challenge the appointment of Dr. Chopra as the Principal of the College as she was not part of the three names recommended by the Selection Committee on July 13, 2020 nor she has challenged the said proceedings. Her only case as canvassed by Mr. Behra is, pursuant to the decision of the Governing Body of the College dated February 6, 2019 on re-advertisement, the petitioner shall have the right of consideration for appointment as Principal is not appealing.

61. This I say so for two reasons, firstly the petitioner having not challenged the proceedings, dated July 13, 2018 of the Selection Committee and dated August 2, 2018 of the Apex Committee, cannot challenge the decision and communications, dated March 12, 2021, March 17, 2021 and March 18, 2021 of the Governing Body and the University as the genesis / foundation of the impugned decision / communications is the proceedings of the Selection Committee / Apex Committee.

62. Secondly, the right of consideration would have accrued only on the issuance of advertisement, pursuant to the decision dated February 6, 2019. In the absence of an advertisement no right exist in favour of the petitioner to seek consideration.

63. Further the stand of the University as canvassed by Mr. A. Mariarputham is, that in view of challenge by Dr. Chopra to the proceedings of Apex Committee dated August 2, 2018; the affidavit of the UGC in W.P.(C) 4521/2019 and the stand of University that it would go by the affidavit of UGC, the University has rightly reviewed its decision of August 2, 2018 and accepted the recommendations of the Selection Committee dated July 13, 2018 recommending Dr. Chopra at serial No.1, is appealing. This I say so as there is no bar on the University to review its decision and by the decision it has brought the selection in conformity with the UGC regulations. I must also state Mr. Behra has not disputed Dr. Chopra's eligibility and suitability to the post of Principal, which also justifies the impugned decision / communications.

64. In so far as the Judgments relied upon by Mr. Behra are concerned, in ***R.K. Sharma v. University of Delhi, W.P.(C) 5923/2003***, a Coordinate Bench of this Court has in Para 36 held that the democratic norm of collective decision contemplated by sub-clause 2 of clause 7 of Ordinance XVIII has to be given full force. Similarly, in ***Shyam Lal College (supra)*** this Court has upheld the constitutional validity of Clause 7 (2) of Ordinance XVIII. In this Judgment the Court has dealt with the same provision as exists in Ordinance of the University on which reliance has been placed by Mr. Behra. It contemplates the selection process to the post of Principal by the Apex Committee headed by the Vice-Chancellor. In ***Dr. Manaswini M. Yogi (supra)***, wherein the Division Bench

upheld the order of the Single Judge, accepting the action of the Apex Committee to interview three candidates who were recommended by the First Committee and not other candidates, whose names were also sent to the Apex Committee by placing reliance on the Judgment where procedure contemplated under Clause 7(2) of the Ordinance XVIII has been upheld by this Court. He relied on the above Judgments to oppose the stand of the respondents that regulations made by the UGC need to be given effect to in letter and spirit by stating that the Ordinance of the University shall have the effect of law and has to be adhered to and also past practice shows the Ordinance has been followed and not regulations as framed by the UGC. On similar proposition, learned Sr. Counsel had relied upon the Judgment in the case of *Ashok Mittal (supra)* and *Governing Body of Hindu College (supra)*.

65. It is true that the aforesaid Judgments of this Court had decided the issue which fell for consideration in terms of Clause 7(2) of Ordinance XVIII of the University, but the same is because no plea was raised by any party with regard to the applicability of Regulations of the UGC over the Ordinance XVIII of the University. In one case, i.e., *University of Delhi v. Ashvin Chaddha, LPA 814/2012* on which reliance was placed by Mr. Behra has made some observations in that regard in Para 6 & 7 in the following manner:

“6. The debate before the learned Single Judge was decided with reference to Clause 7(3) and Clause 7(3)(c) of Ordinance XVIII of the

University of Delhi and the regulations framed by the University Grants Commission. The issue in the appeals concerns the apparent conflict between the provisions of the Ordinance of the University and the Regulations framed by the University Grants Commission. It also embraces the power of the Executive Council of the University of Delhi.

7. Even if the interpretation of the legal position concerning the regulations framed by the University Grants Commission and the Ordinances framed by the University of Delhi survive for consideration, but that would be only academic because as of today a regular Principal has been appointed. The issue decided by the learned Single Judge has even otherwise become a non issue because the guidelines framed by the University Grants Commission concerning appointment of a Principal of a college affiliated to a Central University have since been approved by the Executive Council of the University of Delhi and thus in future issues concerning appointment of Principal of a college affiliated to the University of Delhi would have to be decided keeping in view the decision of the Executive Council. We note that on said basis a subsequent Writ Petition No.1528/2014 concerning appointment of the Principal of Daulat Ram College was disposed of by learned Single Judge ignoring the impugned decision dated November 20, 2012. The order passed by the learned Single Judge deciding WP(C)No.1528/2014 is dated March 10, 2014.”

66. The aforesaid would reveal that the issue of applicability of Regulations or Ordinance was not gone into. I must state here that the Single Judge in the impugned Judgment (**Ashvin**

Chaddha v. University of Delhi, W.P.(C) 497/2012) in para 78 has held as under:

“78. UGC Regulations 2010 hold the field till these are reviewed or altered and when there is a conflict between the University and the UGC Regulations, UGC Regulations would prevail over the Regulations of the Universities. Therefore, I am of the considered view that the term of OSD cannot be for an indefinite period.”

67. A similar issue came up before this Court in the case of ***Shubhanshu Singh and Ors. v. JNU, W.P.(C) 1557/2017*** wherein in Para 44, this Court has held as under:

“44. Mr. Mehta is justified in his submission that Regulations are mandatorily to be followed by the University without any deviation and the binding nature of the said Regulations is not dependent upon it being adopted or accepted by the respondent University or any other University in the Country. In other words, the Regulations are binding on the University by operation of Law, i.e., UGC Act, 1956. This aspect has been clarified by the UGC in its communication dated February 13, 2017.”

68. The said Judgment has been taken in an appeal before the Division Bench and has been stayed. The appeal is still pending consideration.

69. In any case, the issue is no more *res-integra* in view of the Judgment of the Supreme Court in the case of ***Abdul Motin v. Manisankar Maiti and Ors. 2018 (16) SCC Page 533***, wherein in Para 12 and 14, it is held as under:

“12. Having heard the learned counsel appearing for the parties and having considered the ratio in Annamalai University [Annamalai University v. Information & Tourism Deptt., (2009) 4 SCC 590 : 3 SCEC 532] , we are of the view that the effect of that decision is to the contrary. In Annamalai University [Annamalai University v. Information & Tourism Deptt., (2009) 4 SCC 590 : 3 SCEC 532] , this Court observed that the University Grants Commission Act which was enacted by Parliament under Schedule VII List I Entry 66 to the Constitution of India, was so enacted for effectuating coordination and determination of standards in universities. Its provisions are binding on all universities whether conventional or open and its powers are very broad. The Regulations framed under that Act apply equally to open universities as well as also to formal conventional universities vide paras 40-42 of the said judgment which read as under: (SCC p. 607)

“40. The UGC Act was enacted by Parliament in exercise of its power under Schedule VII List I Entry 66 to the Constitution of India whereas the Open University Act was enacted by Parliament in exercise of its power under Entry 25 of List III thereof. The question of repugnancy of the provisions of the said two Acts, therefore, does not arise. It is true that the Statement of Objects and Reasons of the Open University Act shows that the formal system of education had not been able to provide an effective means to equalise educational opportunities. The system is rigid inter alia in respect of attendance in classrooms. Combinations of subjects are also inflexible.

41. Was the alternative system envisaged under the Open University Act in substitution of the formal system, is the question. In our opinion, in the matter of ensuring the standard of education,

it is not. The distinction between a formal system and informal system is in the mode and manner in which education is imparted. The UGC Act was enacted for effectuating coordination and determination of standards in universities. The purport and object for which it was enacted must be given full effect.

42. The provisions of the UGC Act are binding on all universities whether conventional or open. Its powers are very broad. The Regulations framed by it in terms of clauses (e), (f), (g) and (h) of sub-section (1) of Section 26 are of wide amplitude. They apply equally to open universities as also to formal conventional universities. In the matter of higher education, it is necessary to maintain minimum standards of instructions. Such minimum standards of instructions are required to be defined by UGC. The standards and the coordination of work or facilities in universities must be maintained and for that purpose required to be regulated. The powers of UGC under Sections 26(1)(f) and 26(1)(g) are very broad in nature. Subordinate legislation as is well known when validly made becomes part of the Act. We have noticed hereinabove that the functions of UGC are all-pervasive in respect of the matters specified in clause (d) of sub-section (1) of Section 12-A and clauses (a) and (c) of sub-section (2) thereof.

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14. *In view of the observations in Annamalai University [Annamalai University v. Information & Tourism Deptt., (2009) 4 SCC 590:3 SCEC 532] and the above directive, we are of the view that as a consequence, PhD degree issued by an open university and another PhD degree issued by a formal conventional university must, therefore, be treated on a par having been so*

*issued under the uniform standards prescribed
by the University Grants Commission Act.”*

(emphasis supplied)

70. So, it must follow the appointment of Principal in the College has to be as per the recommendation of the Selection Committee constituted as per Regulation 5.1.6 of the UGC Regulations and not as per Ordinance XVIII 7(2) of the University. The College is justified in overlooking the decision of the Apex Committee dated August 2, 2018 and re-visit its earlier decision dated February 6, 2019 in view of the Regulations of the UGC and appoint Dr. Chopra as the Principal on permanent basis in terms of its recommendation dated July 13, 2018. The decision and communications dated March 12, 2021, March 17, 2021 and March 18, 2021 of the College / University need to be upheld. I do not see any illegality in the decision. In view of my conclusion above, W.P.(C) 3684/2021 has to be dismissed.

71. Having said that, in so far as the challenge in W.P.(C) 10615/2019 wherein the petitioner has challenged the appointment of Dr. Basra as acting Principal, of the College. The challenge is primarily on the ground, she does not fulfil the eligibility; and the approval of the Vice-Chancellor has not been taken. The stand of the College / University / Dr. Basra is at variance, inasmuch as she is the senior-most teacher eligible for appointment as acting Principal. Be that as it may, in view of my conclusion in W.P.(C) 3684/2021, upholding the appointment of Dr. Chopra as Principal on permanent basis, the challenge in this petition, to the appointment of Dr. Basra as Acting Principal shall not survive for

consideration and the petition needs to be dismissed as infructuous.

72. The consequence of my above discussion is that both the writ petitions are dismissed. No costs.

CM Nos. 33446/2020, 34940/2020 & 5096/2021 in W.P.(C) 10615/2020

CM Nos. 11168/2021 and 12477/2021 in W.P.(C) 3684/2021

Dismissed as infructuous.

V. KAMESWAR RAO, J

MAY 07, 2021/jg

