IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal Nos. 224, 225, 269, 454, 455, 456, 457, 459,
460, 462, 463, 464 and 483 of 2023
and
C.M.P. Nos. 2347, 2345, 2346, 2350, 2351, 2353,
2784, 2786, 2790, 4302, 4303, 4309, 4310, 4312, 4313, 4314,
4315, 4317, 4318, 4321, 4323, 4326, 4327, 4328, 4330, 4332, 4337,
4342, 4570 and 4569 of 2023

<u>WA No. 224 of 2023</u>

Dr. R. Prabhakaran .. Appellant

Versus

1. The Registrar
   Bharathiar University
   Coimbatore - 641 046

2. The Regional Joint Director
   Local Audit Fund Department
   Coimbatore - 641 046

3. The Assistant Director
   Local Fund Audit
   Bharathiar University
   Coimbatoe - 641 046

4. University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi - 110 002 .. Respondents

WA No. 224 of 2023:- Writ Appeal filed under Clause 15 of Letters Patent against the order dated 12.10.2022 passed in WP No. 17236 of 2022 on the file of this Court.

W.A. No. 224 of 2023

For Appellant	:	Mrs. Kavitha Nithyanandan
For Respondents	:	Mr. K. Shakespeare for R1 & R3
		Mr. Yashwanth Additional Government Pleader for RR2
		Mrs. V. Sudha for R4

COMMON JUDGMENT

Among these batch of writ appeals, W.A. No. 224 of 2023 was filed by the appellant questioning the correctness of the order dated 12.10.2022 passed by the learned Judge in W.P. No. 17239 of 2022, dismissing his writ petition.

2. The other writ appeals are also filed as against identical individual orders passed by the learned Judge dismissing the writ petitions filed by the appellants herein. Therefore, these appeals are taken up for hearing together and disposed of by this common judgment.

3. For the purpose of convenience, WA. No. 224 of 2023 (arising out of WP No. 17239 of 2022) is taken as the lead case. The necessary facts involved would run thus.

4.1. In the affidavit filed in support of the aforesaid writ petition, it was stated that by a notification dated 27.01.2011, Bharathiar University (hereinafter shortly referred to as "the University") had invited applications from eligible candidates for appointment to 35 posts of Assistant Professors in various departments under the XI Plan Project of University Grants Commission (in short, "the UGC"). The appellant got selected in such recruitment drive for the post of Assistant Professor in the Department of Chemistry on 28.02.2011. According to the appellant, as per the UGC XI Plan guidelines, financial assistance was provided for teaching staff posts created under the said plan for a period of five years upto 31.03.2012. As per Clause 4.4 (iii) (a) of the guidelines of the UGC, it is a necessary condition for the release of UGC assistance against any post approved by the UGC. Therefore, as required by the aforesaid clause, the University gave an undertaking that while receiving grant from the UGC, funds will be earmarked for payment of salaries to the appointees appointed under the UGC XI Plan. Even after the expiry of the period on 31.03.2012, the University extended the services/

tenure of the appellant and others for a further period of 5 years until 31.03.2017.

4.2. The appellant further stated that on 13.04.2015, the University had regularised his service in the post of Assistant Professor appointed under UGC-XI plan tenure basis in the Department of Chemistry from the date of joining. On 16.12.2016, the University had also declared the probation of the appellant with effect from 27.02.2013. Thus, the appellant is working in the University as Assistant Professor in the UGC XI Plan.

4.3. During the course of employment of the appellant, the University had called for application under the Career Advancement Scheme (in short, "the CAS") for promotion to various posts. The appellant also submitted his applications under CAS for promotion from Stage-I to Stage-II as Assistant Professor. On the basis of his application, by order dated 30.04.2018, the appellant was promoted from Assistant Professor, Stage-I to Stage-II with effect from 28.02.2015 in the Pay band of Rs.15600-39100 with AGP Rs.7000/-. Subsequently, by proceedings dated 26.12.2018, the University also recommended to count the past services of the appellant for further promotion under CAS. However, the past services of the appellant were not counted and his date of promotion was not revised with effect from 28.02.2013.

4.4. While the facts stood thus, the second respondent raised an audit objection through an Audit Slip No. 39 dated 24.04.2021. On the basis of such audit objection, the first respondent, through a letter dated 03.08.2021, sought explanation from the appellant. The appellant submitted his detailed explanation on 12.08.2021 stating that the requirement for orientation and refresher course for promotion under CAS shall not be mandatory after 31.12.2018 as ordered in G.O. Ms. No.5, Higher Education Department dated 11.01.2021. Subsequently, a circular dated 09.07.2021 was issued by the first respondent calling for applications from eligible faculty members for promotion under CAS from Assistant Professor Stage II to Stage III. The appellant submitted his application with all necessary documents within the time, however, he was not called for the interview to be held on 21.06.2022 and 23.06.2022. When the appellant caused an enquiry, he was informed that since the second respondent has raised audit objections regarding the correctness of the date of his promotion from Stage I to Stage II, his application for promotion under CAS will not be considered. Therefore, the appellant filed W.P. No. 15617 of 2022 challenging the said audit objections and this Court was pleased to pass an interim order on 20.06.2022 directing the respondent University to call the appellant for interview for promotion under CAS. At that time, on 21.06.2022, the first respondent, after a period of eight months, belatedly communicated the audit observation No. 26-2 included in the audit report for the year 2019-2020. Aggrieved by the same, the appellant has filed the Writ Petition No. 17239 of 2022 praying to issue a writ of Certiorari to call for the records of the second respondent in his proceedings dated Nil in Audit slip (Audit Para 26-2/2019-2020) communicated by the first respondent to the appellant through the letter dated 21.06.2022 and quash the same as being illegal and unsustainable under law.

5. Even though notice was served on the respondents in the writ petition, they have not filed any counter affidavit. However, the learned standing counsel for the University has submitted that the application of the appellant for promotion under the CAS will be considered along with others in accordance with the norms.

6. In the light of aforesaid submissions made by the learned Standing counsel for the respondents, the learned Judge dismissed the aforesaid writ petition on 12.10.2022 with an observation that till a final decision is taken with regard to audit objections raised against the appellant, his right to seek promotion under the CAS cannot be deprived. The learned Judge also directed the first respondent/University to process the application

of the appellant for promotion under the CAS. At the same time, the appellant was also permitted to send a reply to the communication dated 21.06.2022, which was impugned in the writ petition, in which he can raise all the grounds that are raised in the writ petition and on receipt of the same, a decision shall be taken by the first respondent and it shall be communicated to the appellant. It is as against this order dated 12.10.2022 passed by the Learned Judge in WP No. 17239 of 2022, the Writ Appeal bearing No. 224 of 2023 came to be filed.

7. The other writ appeals were also filed assailing similar orders passed by the learned Judge, as mentioned supra.

8.1. Ms. N. Kavitha Nithyanandan, learned counsel appearing for the appellants submitted that the appellant was appointed during the year 2011 under the UGC XI Plan guidelines. At the time of his appointment, the University had also received financial assistance from UGC and given a specific undertaking that after a period of five years, for which the UGC will fund the salaries of the staff appointed under the plan, the University will maintain the posts. Thus, the appellant was appointed under the UGC XI Plan with the approval of UGC and its financial assistance. While so, after 12 years of appointment, on the basis of the objections made by the audit department, the University is not justified in raising the issue relating to the validity of the appointment of the appellant or other faculties under the UGC XI Plan, and further making the audit objections as a reason for not entertaining the applications of the appellants under the UGC Career Advancement Scheme (CAS). The learned counsel would further contend that the audit objections relate to certain institutional and procedural factors, which can be answered only by the University administration and the appellants, employees of the University, being fully qualified for the post, cannot be called upon to answer the objections raised by the audit. In such circumstances, the learned Judge ought not to have directed the appellants to submit their explanation to the impugned communication of the first respondent. Such direction issued by the learned Judge in the writ petitions filed by the appellants is uncalled for. Therefore, the learned counsel prayed for quashing of the audit objections made by the 2nd respondent (a wing of the Government) and forwarded by the University, and finally sought for allowing the writ appeals. The Learned Counsel also submitted that the 2nd respondent neither has the jurisdiction nor power to raise objections regarding the appointments made by the University, and would rely upon the provisions of the Bharathiar University Act, 1981 and the Tamil Nadu Local Fund Audit Act, 2014 to elaborate her case on the extent of the jurisdiction available to the 2nd respondent to raise audit objections as regards the accounts and expenses of the University. Similarly, it has been placed on record that the University has answered each and every query raised by the 2nd respondent and that, the same audit objections, which were first raised in the year 2011-2012, have been raised and sent to the University year after year. In this regard, the latest reply sent by the University is dated 12.01.2023. The learned counsel would place reliance on this reply of the University to substantiate her case that every single query, which is institutional in nature, has been specifically and in detail answered by the respondent University and that, the 2nd respondent has blindly and without any application of mind continued to keep these audit objections pending year after year, without being guided by any power or jurisdiction to raise the same and hence, the same are liable to be struck down as having no legal basis. The learned counsel would also reiterate that as the appellants have been specifically appointed under the UGC XI Plan for which the UGC had funded the University on the specific undertaking given by the first respondent University to the UGC to maintain the faculty positions appointed under the UGC XI Plan even after the expiry of the plan period, and further, when all these appointments have been made properly and the appellants are eligible and qualified for holding these posts, which is an admitted position of the respondents themselves, it is not open to the respondents to now raise any objection regarding the appointments of the appellants, and that, since there is no basis in law for raising these audit objections on the basis of the above facts and legal provisions, the learned counsel for the appellants would seek for allowing of the writ appeals.

8.2. Per contra, Mr. K. Shakepeare, learned counsel for the respondent University would contend that though the University replied to the 2nd respondent's audit objections in detail, the 2nd respondent has chosen to keep them pending and as such, the respondent University has communicated the said audit objections to the appellants/writ petitioners for their remarks on the same. The learned counsel for the University also contended that the appellants ought to have responded/replied to the said objections to the University rather than filing writ petitions. The learned counsel also argued that even as per the orders under appeals, the appellants were given liberty to send their replies to the University and therefore, the same need no interference.

8.3. Mr. Yashwant, learned counsel for the 2nd respondent would on the other hand, contend that the State Government was not satisfied with the replies of the University and as such, they were entitled to raise the audit objections impugned in the writ petitions, and to keep them pending. The learned counsel further submitted that the State Government would in this regard trace their power to the provisions of the Tamil Nadu Local Fund Audit Act, 2014, under which, they were certainly entitled to enquire into all details including the audit objections in question. The learned counsel also contended that as the Bharathiar University is a State University, the State Government can direct them to produce all details relating to the expenditure of the University, including relating to employees of the University, their appointments, etc. and subject them to audit.

8.4. Ms. Sudha, learned counsel for the UGC, would place on record the UGC Guidelines in this regard to state the position that under the UGC Plan, it was incumbent on the University to maintain the posts after the Plan period and that, it was only on this condition that the grants were made by the UGC to the University under the XI Plan.

9. We have heard the learned counsel for the parties and also perused the materials placed on record.

10. When the Writ Appeal bearing Nos. 224, 225 and 269 of 2023 were listed for hearing on 13.02.2023, this Court has passed the following order:

"Heard both sides and perused the materials placed before this Court.

2. On 06.02.2023, when these writ appeals were listed for admission, the learned counsel for the respondents 1, 3 and 4 sought short accommodation to get necessary instructions with regard to the promotion to be granted to the appellants. Agreeing with the same, this Court adjourned the matters.

3. On 09.02.2023, when the matters were taken up for consideration, the learned counsel for the respondents 1, 3 and 4 sought further time for the University to issue promotion orders to the appellants as an interim measure and requested the matters to be listed on 13.02.203.

4. Today, the learned counsel for the respondents 1, 3 and 4 produced a copy of the proceedings dated 09.02.2023 issued by the Registrar, Bharathiar University and submitted that the appellants have been granted promotion to the post of Assistant Professor Stage-II to Assistant Professor Stage-III. On the contrary, the learned counsel for the appellants submitted that no promotion orders have been issued to the appellants as directed by this Court.

5. Though the learned counsel for the respondents would contend that the aforesaid proceedings dated 09.02.2023 have been passed pursuant to the views expressed by this Court and hence, there cannot be any grievance to the appellants, the same cannot be countenanced by this court, in view of the fact that the aforesaid proceedings dated 09.02.2023 passed by the Registrar, Bharathiar University is nothing but an order now passed pursuant to the interim direction granted by the learned Judge on 20.06.2022 in W.P.Nos.15617, 15619 & 15622 of 2022. This means that the respondent University has not acted in obedience of the said order till now.

6. As rightly pointed out by the learned counsel for the appellants, the first respondent/University has not complied with the order of the learned Judge dated 20.06.2022 passed in the aforesaid writ petitions and hence, the proceedings dated 09.02.2023 passed by the first respondent/University is nothing but a sheer act of contempt of court and such practice deserves to be deprecated.

7. Now, the issue that arises for consideration in these writ appeals is relating to the audit objections communicated to the appellants on 21.06.2022, based on which, the University has not issued promotion orders to them. The learned counsel for the appellants submitted that the audit objections have been communicated to the appellants after a delay of more than 8 months and the objections, which are all institutional in nature and cannot be meted out by them, have been raised after a decade, for not being considered the case of the appellants for promotion, whereas similarly placed persons have been granted promotion on 02.12.2022 and immediately, thereafter.

8. Upon considering the submissions made by the learned counsel for the appellants, which establish a prima facie case, and the learned counsel for the respondents not being able to explain the reasons *for not considering the case of the appellants for promotion and sustainability of the audit objections, we are inclined to protect the interest of the appellants as an interim measure.*

9. Accordingly, there shall be an order of interim stay in respect of the audit objections communicated to the appellants vide letter dated 21.06.2022 as well as the order dated 12.10.2022 passed by the learned Judge in W.P.Nos.17238, 17239 & 17242 of 2022 until further orders. Consequently, there shall be an order of interim direction to the first respondent/University to issue promotion orders to the appellants from the post of Assistant Professor Stage-II to the post of Assistant Professor Stage-III and from the post of Assistant Professor Stage-III to the post of Associate Professor Stage IV, on or before 21.02.2023. The compliance report be filed by the first respondent / University, failing which, the Registrar of the first respondent/University shall appear before this Court on 22.02.2023.

Post the writ appeals on 22.02.2023."

Similar interim orders have been passed in other writ appeals also, following the aforesaid order.

11. Thereafter, when the matters were taken up for consideration, the first respondent / Registrar (in-charge) of Bharathiar University has filed an undertaking affidavit dated 22.02.2023 in which it was stated that as directed by this Court, the appellants were allowed to participate in the interview on 21.06.2022 to 23.06.2022. It was also stated that the matter was placed before the 34th syndicate meeting held on 03.12.2022 to consider the CAS applications submitted by the faculty members and the syndicate also unanimously approved and authorised to process the CAS promotion and to issue orders, which shall be placed for ratification in the ensuing meeting of the Syndicate. Accordingly, the first respondent has served the CAS

Promotion order as Assistant Professor appointed under UGC XI and regularised their service from Stage II to Stage III *vide* proceedings dated 08.02.2023. Thereafter, the Vice Chancellor's committee has also issued CAS promotion orders for all the faculty members from Assistant Professor Stage II to III and from Assistant Professor Stage III to Associate Professor (Stage IV), as the case may be, during the pendency of these writ appeals by orders dated 23.02.2023 pursuant to the orders of this Court dated 13.02.2023.

12. Since all the appellants have been granted promotion under CAS pursuant to the interim orders passed by this Court, the issue as to whether audit objections can be a reason for not considering their promotion need not be gone into at this stage. The only issue that remains to be considered in the writ appeals is the validity or otherwise of the audit objections raised by the second respondent in respect of the appointments of the appellants in the initial post of Assistant Professors in the respondent University appointed under UGC XI Plan. The orders impugned in the writ petitions are the audit objections made by the second respondent and forwarded by the first respondent University to the appellants herein.

13. Since the audit objections have emanated from the second

respondent, which is a wing of the State government, the fundamental question to be decided is whether in the light of the nature of audit objections made by the second respondent, the second respondent is empowered under law to have raised those audit objections. In this regard, reference may be made to the provisions of the Tamil Nadu Local Fund Audit Act 2014 and the Rules made thereunder. The learned counsel for the second respondent would submit that they trace their power to Rule 7 (4) (d) of the Rules, which is extracted hereunder for easy reference:

> "*7. Preparation and submission of annual accounts for audit.-*
> ……….
> *(4)The annual accounts presented for audit by the University shall include.-*
> *(a) demand collection balance statement of all receipts (including of tuition fee, entrance fee, examination fee and other fees) collected;*
> *(b) demand collection balance statement of university affiliation fee and sports affiliation fee (to be collected by the principles of affiliated colleges) remitted to University fund;*
> *(c) demand collection balance statement of fees and other diverse collected by the teaching department of the University including distance education;*
> *(d) the accounts and statements of expenditure relating to the grants sanction to the universities by the University Grants Commission or the state government or other funding agencies for specified schemes. In the case of continuing schemes, the accounts of such schemes shall be presented for audit as required by the funding agency;*
> *(e) in the case of grants sanction by other agencies (including the State committee of science and technology) the accounts relating to the research schemes projects or seminar shall be presented for audit as soon as a researcher, projects or seminars is finalised of the grant received is utilised as the case may be."*

14. A reading of the above Rules with specific reference to Rule (7)(4)(d) would make it clear that the annual accounts presented for audit by the University is in the nature of presenting accounts on an annual basis in

relation to supervising the utilisation of the grants sanctioned by the UGC or the state government for the universities. By no stretch of imagination, can such power be exercised over and over again, year after year, for the very same objections when the same has been specifically answered and mentioned by the respondent University. More importantly, these audit objections have first emanated from the second respondent in the year 2011-12, even prior to the coming into force of the Tamil Nadu Local Fund Audit Act, 2014. Therefore, the reliance placed by the learned counsel for the second respondent on these provisions is only misplaced. In any event, even on a general view of the matter, audit objections can be raised with respect to annual accounts of the University on an annual basis only, and once the University specifically replies for an audit objections touching upon the financial health of the University, the same needs to be settled accordingly by the second respondent. In a case of this nature where the University has explained the circumstances in which the appellants came to be appointed, under the specific financial assistance of the UGC under the UGC XI Plan, which came with an undertaking that the University should maintain these posts after the Plan period, the second respondent raise the very same audit objections year after year under the omnibus clause under Rule 7(4)(d).

15. The learned counsel for the appellants also brought to the notice

of this Court, the judgment of this Court in WP (MD) No. 6635 of 2019 dated 16.06.2023 wherein this Court had an occasion to deal with similar facts and circumstances. While dealing with Section 27 of the Manonmaniam Sundaranar University Act, 1990 which provided that the annual accounts of the University shall be submitted to such examination and audit as the government may direct, this Court has adopted the view that such provision will not empower the government to issue a direction of this nature and that, any further roving enquiry made by the Local Fund Audit Department in this regard into the appointments and promotions made by the University, will amount to an interference with the internal administration of the University. Section 27 of the said Act stated supra is analogous to and is *in pari materia* with section 27 of the Bharathiar University Act. As such, we do not see why the observation made by this Court in the above stated case would not apply to the facts of the present case as well.

16. The factual backdrop against which the appellants were appointed by the respondent University under the UGC XI Plan, has a direct bearing on the rights of the appellants. In this connection, it is relevant to refer to clause 4.4(iii) of the guidelines of the UGC XI Plan, which states as follows:

"*(a) Teaching Staff:*

> *Under this item, sanction would be given for the creation of posts of Professors, Readers and Lecturers during the XI plan in various subject areas. However, during the plan period, if found essential, it is permissible for the University to you and seek the approval of the UGC for giving up any post in one subject area and creating post(s) within the allocation in another subject area. UGC assistance for the posts created under this item would be available only for the plan period of five years and not beyond 31/03/2012 i.e. the end of the plan period, irrespective of the date of appointment. Therefore in order to claim assistance from the UGC under staff salary item, the University should ensure that the minimum qualifications prescribed by the UGC for appointment of teachers are strictly followed and sanctioned posts are filled up within one year of approval of UGC. However it is a necessary condition for the release of UGC assistance against any post approved by UGC that a copy of the concurrence accorded by the State government/an undertaking by the concerned University, based on the resolution of the executive Council in respect of maintenance of the posts after the XI Plan period, is enclosed. ……..”*

17. It is also seen that on the basis of the said guidelines, the respondent University has made an undertaking to the UGC to maintain the XI plan period posts in the subsequent plan period as well and the said undertaking is usefully reproduced below:

> “*The Bharathiar University hereby undertakes to maintain the XI plan period posts in the subsequent plan periods as well on behalf of the Syndicate of the Bharathiar University as the Vice Chancellor of this esteemed university assure that under no circumstances will the University allow the faculty recruited under the XI Plan to be affected by any constraint whatsoever”.*

18. However, it is seen that immediately thereafter, the respondent University, for reasons best known to them, had reneged on their promise and attempted to terminate the services of the appellants who had then challenged the said orders of termination in WP Nos. 7994 to 8001 of 2013 in which there was initially an order of interim stay. After the timely intervention of the State

Government themselves in this regard, the University had decided to continue and regularise the services of the appellants by their proceedings dated 13.04.2015 and thereafter the appellants had completed their probation and have also been considered for promotion and have been working in the services of the respondent University till date. The writ petitions stated in WP Nos. 7994 to 8001 of 2013 also came to be withdrawn on the basis of the subsequent developments. These factual events are also of relevance in deciding the legal correctness of the orders impugned in the writ petitions, i.e. the audit objections raised by the second respondent, as these facts would point out that all these appointments have been made with the concurrence of the UGC and on the basis of the specific undertaking given by the University to the UGC that these posts will be maintained even after the initial period of five years for which the UGC had funded the University. In these circumstances, when the University has made a detailed reply with respect to every single query raised, the second respondent would not, under law, be justified in refusing to settle these objections or close them on the basis of the replies made by the University. More importantly, all the queries raised by the second respondent, which are mainly in the nature of- whether the 200 point community roster was followed while making these appointments, whether the guidelines stipulated by the UGC were followed in respect of the extension of service beyond the XI plan period, whether the absence of the government nominee and Chancellor's nominee during the selection committee meeting held on 24.02.2011, had cast any doubt on the appointments made, the non-adherence of the conditions like getting the approval of the Tamil Nadu government and the UGC, and extension of service beyond the UGC XI plan period and the circumstances in which it has been made etc., are all within the exclusive domain as well as knowledge of the University. The employees i.e the appellants cannot be made to either answer such queries or objections or be made to suffer for not being in a position to answer these queries or objections as every one of them relate only to internal administration of the University.

19. In this regard, this court also raised a query with respect to the eligibility and qualifications of all the appellants in order to clarify whether there has ever been any doubt cast on the eligibility of the appellants to hold these posts. In reply to the same, the counsel for the University has admitted that every one of the appellants herein are fully eligible and qualified to hold the posts of Assistant and Associate professors, as the case may be, and has also filed documents to support his submission in this regard. Therefore, this court does not have any doubt that the appellants are eligible to hold these posts.

20. The learned counsel for the appellants also placed reliance on the

judgement of the Hon'ble Supreme Court in *State of Punjab and Ors. v. Sardari Lal and Ors., [(2003)10 SCC 253]* wherein the Hon'ble Supreme Court stated as follows:

> "*3. Under the University statute, Statute 41 deals with the grant of accelerated increment and allowance and powers conferred upon the syndicate or the Vice Chancellor or the registrar. The power of the state government under section 25 of the Act to get the accounts of the University audited will not include within its sweep any power to nullify a decision of the appropriate authority of the University in the matter of grant of accelerated increment or allowance which has been specifically conferred upon the authorities of the University. The power of the state government under section 23 of the Act is to the effect that the State government may provide such amounts by way of grants for meeting the capital recurring or other expenditure of University as it may deem fit. Merely because the state government has been conferred power to provide amounts by way of grant for meeting the expenditure of the University will not clothe the State government with any further control in the matter of expenditure or the service condition of the employees which are specifically provided for in the statute itself and the statute confers powers on the Vice Chancellor, the syndicate or the register and not on the State government. The University is an autonomous body and therefore, the state government will not be entitled to interfere with the internal administration of the University notwithstanding the fact that the state government is funding body until and unless the university statutes provide for the same or there is any Act of legislation conferring the power of the state government. In course of arguments the learned counsel appearing for the state government brought to notice the provisions of section 10 of the Haryana and Punjab Agricultural Universities Act in support of the contention that since the Vice Chancellor has certain power of control and that power must be held to be with the state government as the Vice Chancellor exercises that power in aid and advice of the state government. This provision is not there either in the statute of the Guru Nanak Dev University or Punjab University. But even for the Haryana and Punjab agricultural University also the aforesaid power on a plain reading cannot be held to be conferring power of the state government to take any decision in the internal administration of the University which the statute itself does not provide. The impugned judgement in CA number 5088/96 clearly indicates that no provision has been pointed out which may show that the government is entitled to interfere with the internal administration of the University or the grant of benefit to the employees.*"

21. The decision referred to above makes it clear as daylight that even if the state government is a body that funds the University, the state government cannot under the guise of auditing the accounts of the University, interfere with the internal administration of the University, which power of the University includes the power to make appointments as well as promotions. The other decision relied upon by the learned counsel for the appellants is *Sushil Kumar Tripathi v. Jagadguru Ram Bhadracharya Handicapped University and Ors., [AIR 2021 SC 5702]*, wherein, in similar circumstances, under the UGC Plan, assurance was obtained from the University to maintain and take over the liability of these posts after the plan period of the UGC. The Hon'ble Supreme Court held that the termination of the services of the appellant therein was incorrect and therefore, his services were to be continued as per the UGC plan. Further, in identical circumstances, in *R. Soranam v. Manonmaniam Sundaranar University, in WP (MD) No. 3935 of 2012* decided on 20.09.2012 in respect of the very same UGC XI plan, this Court taking into consideration the guidelines of the UGC, which had stipulated that in order to get grant from the UGC, it is for the University to file an undertaking with respect to maintenance of the posts after the UGC XI Plan period, held that the University cannot after having benefited under the UGC plan and utilising the funds and grants made by the UGC, wriggle out of such an undertaking as was

required under the guidelines of the UGC.

22. The above judgements would make it clear that the second respondent had ignored this factual background as well as the circumstances in which the appellants claim to be appointed as Assistant Professors in the respondent University under the UGC plan, and more importantly, that it was beyond their power as well as jurisdiction under the Tamil Nadu Local Fund Audit Act, 2014 as well as under the Bharathiar University Act, 1981 to have raised objections with regard to the validity of the appointments made under the UGC XI Plan. This Court deprecates the practice of the second respondent of not accepting or settling the objections even after a period of 13 years, especially, when it is the annual accounts of the University which is to be looked into by the second respondent and to the extent as provided for, without causing any undue interference into the internal administration and management of the University. It is unfortunate that even after 13 years of service in the respondent University and after having completed probation as well as being promoted, the appellants are made to face such audit objections with respect to their initial appointments itself, which hang like the sword of Damocles, on their careers. The audit objections therefore deserve to be quashed and the respondent University is directed to pay the appellants within four (4) weeks, the arrears of pay that they are entitled to on the basis of the

CAS promotion orders, and the consequent pay fixation orders passed during the pendency of these appeals.

23. In the light of the above discussion, this Court has no hesitation to quash the audit objections of the 2nd respondent / orders impugned in the writ petitions. Accordingly, the orders impugned in these appeals as well as in the writ petitions are set aside and the writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.M.D., J) **(M.S.Q., J)**

20.10.2023

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Internet : Yes / No
Index : Yes/No

1. The Registrar, Bharathiar University
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