



W.P. Nos. 28147 of 2022 and 4174 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

CORAM :

THE HON'BLE MR. SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVU

W.P. Nos. 28147 of 2022 and 4174 of 2023

W.P. No. 28147 of 2022:-

**V.Palaniappa
Petitioner**

...

-VS-

- 1. The Secretary to the Chancellor,
Puducherry Technological University,
Puducherry – 605 001.**
- 2. The Secretary to Government (Education),
Goubert Avenue,
Beach Road,
White Town,
Government of Puducherry,
Puducherry – 605 001.**
- 3. The Director,
Directorate of Higher and Technical Education,
Tholkappiar Main Road,
Puducherry – 605 008.**
- 4. Dr. S.Mohan,
Vice Chancellor,
Puducherry Technological University,
Pillaichavadi,
Puducherry – 605 014.**



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5. Puducherry Technological University,
Represented by its Registrar,
Pillaichavadi,
Puducherry – 605 014.

6. University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi – 110 002.
(R6 is impleaded vide order dated 09.08.2023) ...
Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that all proceedings in relation to the order of appointment of the Fourth Respondent as Vice Chancellor of PTU issued by the Second Respondent in No. 37/ RUSA/PSHEC/PTU/2021/1052 dated 17.12.2021 is illegal and ultra vires and to direct the official First to Third Respondents to constitute a fresh Search Committee in compliance with UGC Regulations for Appointment of a new Vice Chancellor of the Puducherry Technological University within a limited time frame.

For Petitioner : Mr. M.Ravi

For Respondents : Mr. S.Raveekumar,
Government Pleader (Puducherry)
(for R1 to R3)

Mr. V.Prakash, Senior Counsel
for Mr. AR.Karthik Lakshmanan
(for R4)

Mr. R.Sreedhar,
Government Advocate (for R5)

Mrs. V.Sudha (for R6)



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W.P. No. 4174 of 2023:-

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S.Mourouga Pragash
Petitioner

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-VS-

1. The Chancellor,
Puducherry Technological University,
Represented by Lieutenant Governor,
Raj Nivas,
Puducherry – 14.
2. The Secretary to Government (Higher and Technical Education),
Government of Puducherry,
Chief Secretariat,
Puducherry – 1.
3. The Director,
Directorate of Higher and Technical Education,
Tholkappiar Main Road,
Puducherry – 8.
4. The Registrar,
Puducherry Technological University,
Pillaichavadi,
Puducherry – 14.
5. Dr. V.Jagadeesh Kumar,
Dean,
Academic Courses,
IIT Madras,
Chennai – 36.
6. Dr. S.Mohan,
Vice Chancellor,
Puducherry Technological University,
Pillaichavadi,
Puducherry – 605 014.
7. University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi – 110 002.



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(R7 is impleaded vide order dated 09.08.2023) ...

Respondents

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Prayer:- Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that Section 14(5) and proviso to Section 14(5) of the Puducherry Technological University Act, 2019 as unconstitutional, void and non-est in law and consequently declare the constitution of the Search Committee by Proceedings in G.O. Ms. No. 03 dated 20.01.2021 issued by the Second Respondent, as well as appointment of the Sixth Respondent as Vice Chancellor of the Puducherry Technical University as illegal and void.

For Petitioner : Mr. Srinath Sridevan,
Senior Counsel
for Mr. R.Udhaya Kumar

For Respondents : Mr. S.Raveekumar,
Government Pleader (Puducherry)
(for R1 to R3)

Mr. R.Sreedhar,
Government Advocate (for R4)

No appearance (for R5)

Mr. V.Prakash, Senior Counsel
for Mr. AR.Karthik Lakshmanan
(for R6)

Mrs. V.Sudha (for R7)



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COMMON ORDER

(Order of the Court was made by P.D. AUDIKESAVALU, J.)

Since the present Writ Petitions relate to the same controversy and are inter-connected, they have been heard together and are disposed by this common order.

2. The Legislative Assembly of the Union Territory of Puducherry, which has been conferred with powers to legislate on subjects in Lists II and III of Schedule VII of the Constitution, has enacted the Puducherry Technological University Act, 2019 (hereinafter referred to as 'the PTU Act' for short), that came into force with effect from 24.06.2020 establishing the Puducherry Technological University (hereinafter referred to as 'PT University' for short) under Section 3 of that Act. In terms of Section 14 of the PTU Act, the Vice-Chancellor of PT University has to be appointed from among the panel of three names of persons recommended by a 'Search Committee' referred to in Section 14(5) of the PTU Act and such a panel shall not contain any



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member of the 'Search Committee'. For the purpose of Section 14(5) of the PTU Act, the 'Search Committee' shall consist of following members to recommend the names for the appointment as Vice-Chancellor, namely:-

- “(a) A nominee of the Chancellor, who shall be a person of eminence in the field of Engineering/Technology, not below the rank of Vice-Chancellor/Professor .. Convener;
- (b) A nominee of the Government .. Member;
- (c) A nominee of the Board of the Governors .. Member;

For the appointment of First Vice-Chancellor, Secretary to Government (Higher and Technical Education), Government of Puducherry shall be the member in place of the nominee of Board of the Governors.”

The Government of Puducherry by G.O. Ms. No. 03, Chief Secretariat (Higher and Technical Education) dated 20.01.2021 constituted a 'Search Committee' under Section 14(5) of the PTU Act for selection of the First Vice-Chancellor of PT University with the following nominees:-



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- (a) Prof. V.Ramgopal Rao, .. Convener;
Director,
Indian Institute of Technology,
Delhi.
- (b) Dr. V.Jagadeesh Kumar, .. Member;
Professor,
Department of Electrical Engineering,
Indian Institute of Technology,
Madras.



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(c) The Secretary to Government
(Higher and Technical Education),
Government of Puducherry.

.. Member;

In furtherance to the recommendations made by the 'Search Committee' of PT University, Dr. S.Mohan was appointed as its Vice-Chancellor by Proceedings No. 37/RUSA/PSHEC/PTU/2021/1052 dated 17.12.2021 issued by the Secretary to Government (Education), Government of Puducherry for a period of five years, or till he attains the age of superannuation as specified by the University Grants Commission (hereinafter referred to as 'the UGC' for short) from time to time, whichever is earlier.

3. At this juncture, reference must be made to UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 (hereinafter referred to as 'the UGC Regulations, 2018' for short) framed by the UGC in the exercise of powers conferred under clause (e) and (g) of sub-section (1) of Section 26 read with Section 14 of the University Grants Commission Act, 1956 (hereinafter referred to as



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'the UGC Act' for short) and in supersession of the extant

Regulations of 2010 with all amendments made thereunder from time to time, which came into force with effect from 18.07.2018.

In the context of the present cases, it would be necessary to extract the relevant Regulations, which read as follows:-

"1. Short title, application and commencement:

- 1.1 These Regulations may be called 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) Regulations, 2018.
- 1.2 These shall apply to every University established or incorporated by or under a Central Act, Provincial Act or a State Act, every Institution including a Constituent or an affiliated College recognized by the Commission, in consultation with the University concerned under Clause (i) of Section 2 of the University Grants Commission Act, 1956 and every Institution deemed to be a University under Section 3 of the said Act.
- 1.3 These shall come into force from the date of notification.
2. The Minimum Qualifications for appointment and other service conditions of University and College



teachers, Librarians, and Directors of Physical Education and Sports as a measure for the maintenance of standards in higher education, shall be as provided in the Annexure to these Regulations.

3. If any University contravenes the provisions of these Regulations, the Commission after taking into consideration the cause, if any, shown by the University for such failure or contravention, may withhold from the University, the grants proposed to be made out of the Fund of the Commission.

1.0 Coverage

These Regulations are issued for minimum qualifications for appointment and other service conditions of University and College teachers and cadres of Librarians, Directors of Physical Education and Sports for maintenance of standards in higher education and revision of pay-scales.

- 1.1 For the purposes of direct recruitment to teaching posts in disciplines relating to university and collegiate education, interalia in the fields of health, medicine, special education, agriculture, veterinary and allied fields, technical education, teacher education, norms or standards laid down by authorities established by the relevant Act of Parliament under article 246 of the Constitution for the purpose of co-ordination and determination of



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standards in institutions for higher education or research and scientific and technical institutions, shall prevail.

- i. Provided that where no such norms and standards have been laid down by any regulatory authority, UGC Regulations herein shall be applicable till such time as any norms or standards are prescribed by the appropriate regulatory authority.
- ii. Provided further that for appointment to the post of Assistant Professor and equivalent positions pertaining to disciplines in which the National Eligibility Test (NET), conducted by the University Grants Commission or Council of Scientific and Industrial Research as the case may be, or State level Eligibility Test (SLET) or the State Eligibility Test (SET), conducted by bodies accredited by the UGC for the said purpose, qualifying in NET/SLET/SET shall be an additional requirement.

- 1.2 Every university or institution deemed to be University, as the case may be, shall as soon as may be, but not later than within six months of the coming into force of these Regulations, take effective steps for the amendment of the statutes, ordinances or other statutory provisions governing



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it, so as to bring the same in accordance with these Regulations.

7.3. VICE CHANCELLOR:

- i. A person possessing the highest level of competence, integrity, morals and institutional commitment is to be appointed as Vice-Chancellor. The person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of ten years' of experience as Professor in a University or ten years' of experience in a reputed research and / or academic administrative organisation with proof of having demonstrated academic leadership.
- ii. The selection for the post of Vice-Chancellor should be through proper identification by a Panel of 3-5 persons by a Search-cum-Selection-Committee, through a public notification or nomination or a talent search process or a combination thereof. The members of such Search-cum-Selection Committee shall be persons' of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the Search cum-Selection Committee shall give proper weightage to the



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academic excellence, exposure to the higher education system in the country and abroad, and adequate experience in academic and administrative governance, to be given in writing along with the panel to be submitted to the Visitor/Chancellor. One member of the Search cum Selection Committee shall be nominated by the Chairman, University Grants Commission, for selection of Vice Chancellors of State, Private and Deemed to be Universities.

- iii. The Visitor/Chancellor shall appoint the Vice Chancellor out of the Panel of names recommended by the Search-cum-Selection Committee.
- iv. The term of office of the Vice-Chancellor shall form part of the service period of the incumbent making him/her eligible for all service related benefits."

4. It is the case of the Petitioner in W.P. No. 28147 of 2022, viz., V.Palaniappa, who is the General Secretary, PTU Pensioners' Welfare Association, that though the prescribed procedure for constitution of the 'Search Committee' for the appointment of the First Vice-Chancellor of PT University may have been followed, it is not in accordance with the UGC Regulations,



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2018 and it would consequently invalidate the selection of Dr. S. Mohan made to that post.

5. The Petitioner in W.P. No. 4174 of 2023, viz., S.Mourouga Pragash, is an Associate Professor in PT University and has sought for a declaration that Section 14(5) and its proviso of the PTU Act is unconstitutional, void and non-est in law and consequently declare the constitution of the 'Search Committee' by Proceedings G.O. Ms. No. 03, Chief Secretariat (Higher and Technical Education) dated 20.01.2021 issued by the Government of Puducherry as well as the appointment of the said Dr. S.Mohan as the First Vice-Chancellor of PT University as illegal and void.

6. We have extensively heard Mr. Srinath Sridevan, Learned Senior Counsel assisted by Mr. R.Udhaya Kumar, Learned Counsel for the Petitioner in W.P. No. 4174 of 2023, Mr. M.Ravi, Learned Counsel for the Petitioner in W.P. No. 28147 of 2022, Mr. S.Raveekumar, Learned Government Pleader (Puducherry) appearing for the Government of Puducherry, Mr. R.Sreedhar, Learned Government Advocate appearing for PT University,



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Mr. V.Prakash, Learned Senior Counsel assisted by Mr. AR.Karthik Lakshmanan, Learned Counsel for Dr. S.Mohan, who has been appointed as the Vice-Chancellor of PT University, and Mrs. V.Sudha, Learned Counsel for the University Grants Commission and perused the materials placed on record, apart from the pleadings of the parties.

7. Learned Counsel for the Petitioners submit that it is apparent on the face of the record that the constitution of the 'Search Committee' for appointment of the First Vice-Chancellor of PT University by not including a nominee of the Chairman, University Grants Commission as one of its members is not in consonance with Regulation 7.3 of the UGC Regulations, 2018. This situation has arisen on account of the fact that Section 14(5) of the PTU Act does not provide for it. That apart, the presence of the Secretary to Government (Higher and Technical Education) of the Government of Puducherry as a member of the 'Search Committee' is said to be in breach of the mandate in Regulation 7.3 of the UGC Regulations, 2018, which requires that members of the 'Search Committee' shall not be connected in any manner with



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the University concerned or its colleges, inasmuch as the Secretary to Government (Higher and Technical Education) of the Government of Puducherry is the Pro-Chancellor of PT University and was on the Governing Body of the erstwhile Pondicherry Engineering College, which has been converted to PT University. In support of the contentions of the Petitioners, strong reliance is placed on the decisions of the Hon'ble Supreme Court of India in ***Gambhirdhan K. Gadhvi -vs- State of Gujarat*** [(2022) 5 SCC 179], ***State of West Bengal -vs- Anindya Sundar Das*** (Order dated 11.10.2022 in Civil Appeal No. 6706 of 2022) and ***Professor (Dr.) Sreejith P.S. -vs- Dr.Rajasree M.S.*** (Order dated 21.10.2022 in Civil Appeal Nos. 7634-7635 of 2022).

8. The said contentions of the Petitioners are vehemently opposed by the Government of Puducherry and Dr. S.Mohan, who has been appointed as the Vice-Chancellor of PT University, by highlighting that the UGC Regulations, 2018 are not binding on PT University as they have not been adopted by it and they would not apply to it as it is not receiving any grant from UGC. As UGC has



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the power to withhold the payment of the grants alone, the consequence that would follow for acting in violation of the Regulations at the utmost would be that the grant could be withheld, but cannot invalidate the constitution of the 'Search Committee' which has been constituted in accordance with Section 14(5) of the PTU Act. It is further submitted that the Secretary to Government (Higher and Technical Education) of the Government of Puducherry had not participated in the meeting held on 29.06.2021, meaning thereby that it cannot be said that his inclusion as a member of the 'Search committee' could not be said to have vitiated the selection of the Vice-Chancellor.

9. The rulings of the Hon'ble Supreme Court of India in **University of Delhi -vs- Raj Singh** [1994 Supp (3) SCC 516], **Jagdish Prasad Sharma -vs- State of Bihar** [(2013) 8 SCC 633] and **Kalyani Mathivanan -vs- K.V.Jeyaraj** [(2015) 6 SCC 363] are cited by the contesting Respondents, viz., the Government of Puducherry and the selected Vice-Chancellor of PT University, to fortify that in the absence of specific adoption by the concerned State, the UGC Regulations, 2018, cannot affect the constitution of



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the 'Search Committee' for appointment of the First Vice-Chancellor of PT University.

10. Though elaborate submissions have been made by both sides on repugnancy in terms of Article 254 of the Constitution arising out of inconsistency of Section 14(5) of the PT Act with Regulation 7.3 of the UGC Regulations, 2018, in view of the legal position having been settled by the Constitution Bench of the Hon'ble Supreme Court of India in ***Dr.Preeti Srivastava -vs- State of M.P.*** [(1999) 7 SCC 120], it would not be necessary to delve into it, except to notice the relevant passage from that ruling, which reads as follows:-

“35. The legislative competence of Parliament and the legislatures of the States to make laws under Article 246 is regulated by the VIIth Schedule to the Constitution. In the VIIth Schedule as originally in force, Entry 11 of List II gave to the State an exclusive power to legislate on

“education including universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I and Entry 25 of List III”.



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Entry 11 of List II was deleted and Entry 25 of List III was amended with effect from 3-1-1976 as a result of the Constitution 42nd Amendment Act of 1976. The present Entry 25 in the Concurrent List is as follows:

“25. Education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”

Entry 25 is subject, inter alia, to Entry 66 of List I. Entry 66 of List I is as follows:

“66. Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

Both the Union as well as the States have the power to legislate on education including medical education, subject, inter alia, to Entry 66 of List I which deals with laying down standards in institutions for higher education or research and scientific and technical institutions as also coordination of such standards. A State has, therefore, the right to control education including medical education so long as the field is not occupied by any Union legislation. Secondly, the State cannot, while controlling education in the State, impinge on standards in institutions for higher education. Because this is exclusively within the



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purview of the Union Government. Therefore, while prescribing the criteria for admission to the institutions for higher education including higher medical education, the State cannot adversely affect the standards laid down by the Union of India under Entry 66 of List I. Secondly, while considering the cases on the subject it is also necessary to remember that from 1977, education, including, inter alia, medical and university education, is now in the Concurrent List so that the Union can legislate on admission criteria also. If it does so, the State will not be able to legislate in this field, except as provided in Article 254."

It would be beneficial here to extract Article 254 of the Constitution, which reads as follows:-

"254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.— (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature



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of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

The Constitution Bench of the Hon'ble Supreme Court of India in ***Kaiser-I-Hind (P) Ltd. -vs- National Textile Corporation*** [(2002) 8 SCC 182] has authoritatively explicated the law in that regard as follows:-

“65.

2. (a) Article 254(2) contemplates “reservation for consideration of the President” and also “assent”. Reservation for consideration is not an empty formality. Pointed attention of the President is required



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to be drawn to the repugnancy between the earlier law made by Parliament and the contemplated State legislation and the reasons for having such law despite the enactment by Parliament.

(b) The word "assent" used in clause (2) of Article 254 would in context mean express agreement of mind to what is proposed by the State.

(c) In case where it is not indicated that "assent" is qua a particular law made by Parliament, then it is open to the Court to call for the proposals made by the State for the consideration of the President before obtaining assent."

Viewed from this perspective, the Government of Puducherry has not placed any material before the Court to show that the assent of the President has been obtained for the PTU Act with specific reference to the inconsistency of Section 14(5) of the PTU Act with Regulation 7.3 of the UGC Regulations, 2018 that requires a nominee of the Chairman of the UGC to constitute the 'Search Committee' for the appointment of the Vice-Chancellor of PT University.

11. It would assume significance here to notice that there was no provision in the erstwhile UGC Regulations similar to clause 1.2 of



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Regulation 1 of the UGC Regulations, 2018, which requires every University to take effective steps within six months from its commencement for the amendment of the statutes, ordinances or other statutory provisions governing it, so as to bring the same in accordance with the said Regulations. On a conspectus reading of the various decisions of the Hon'ble Supreme Court of India mentioned supra, it is evident that divergent view has been expressed in ***Gambhirdhan K. Gadhvi -vs- State of Gujarat*** [(2022) 5 SCC 179], ***State of West Bengal -vs- Anindya Sundar Das*** (Order dated 11.10.2022 in Civil Appeal No. 6706 of 2022) and ***Professor (Dr.) Sreejith P.S. -vs- Dr.Rajasree M.S.*** (Order dated 21.10.2022 in Civil Appeal Nos. 7634-7635 of 2022) from the earlier cases in ***Jagdish Prasad Sharma -vs- State of Bihar*** [(2013) 8 SCC 633] and ***Kalyani Mathivanan -vs- K.V.Jeyaraj*** [(2015) 6 SCC 363] taking note of the aforesaid statutory change brought in the UGC Regulations, 2018. The relevant passages from the decision of the Hon'ble Supreme Court of India in ***State of West Bengal -vs- Anindya Sundar Das*** (Order dated 11.10.2022 in Civil Appeal No. 6706 of 2022), which clinch the legal position, are extracted below:-



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“58. The University Grants Commission (Minimum Qualifications for appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulations 2018 have been issued to prescribe, inter alia. the minimum qualifications for appointment and other service conditions of University and College teachers.

59. Regulation 1.2 of the UGC Regulations provides that they are applicable to:

“every University established or incorporated by or under a Central Act, Provincial Act or a State Act, every Institution including a Constituent or an affiliated College recognized by the Commission, in consultation with the University concerned under Clause (i) of Section 2 of the University Grants Commission Act, 1956 and every Institution deemed to be a University under Section 3 of the said Act.”

60. Regulation 7.3 provides for the minimum qualifications of a VC, selection procedure and the appointment procedure. Regarding the appointment of the VC, Regulation 7.3 states that:

7.3 Vice Chancellor:

[...]

(iii) The Visitor/Chancellor shall appoint the Vice Chancellor out of the Panel of names



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recommended by the Search-cum-Selection Committee.

61. In **Gambhirdhan K. Gadhvi -vs- State of Gujarat** [(2022) 5 SCC 179], the Sardar Patel University Act 1955, expressly vested the power of appointment of the Vice Chancellor in the State government (instead of the Chancellor). Despite the appointment being in terms of the statutory provisions of the Sardar Patel University Act 1955, the Court issued a writ of quo warranto setting aside the appointment of the Vice Chancellor by relying upon the UGC Regulations 2018. This Court, holding that the UGC Regulations were binding, held that:

49. Therefore, when the appointment of Respondent 4 is found to be contrary to the UGC Regulations, 2018 and the UGC Regulations are having the statutory force, we are of the opinion that this is a fit case to issue a writ of quo warranto and to quash and set aside the appointment of Respondent 4 as the Vice-Chancellor of the SP University.

50. It cannot be disputed that the UGC Regulations are enacted by the UGC in exercise of powers under Sections 26(1)(e)



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and 26(1)(g) of the UGC Act, 1956. **Even as per the UGC Act every rule and regulation made under the said Act, shall be laid before each House of Parliament. Therefore, being a subordinate legislation, UGC Regulations becomes part of the Act. In case of any conflict between the State legislation and the Central legislation, Central legislation shall prevail by applying the rule/principle of repugnancy as enunciated in Article 254 of the Constitution as the subject "education" is in the Concurrent List (List III) of the Seventh Schedule to the Constitution.** Therefore, any appointment as a Vice-Chancellor contrary to the provisions of the UGC Regulations can be said to be in violation of the statutory provisions, warranting a writ of quo warranto. (emphasis supplied)

62. In view of the decision in **Gambhirdhan K. Gadhvi -vs- State of Gujarat** [(2022) 5 SCC 179], even if the provisions of the Act allowed the appointment of the Vice Chancellor by the State government, it would



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be in violation of the UGC Regulations. The Regulations become part of the statute framed by Parliament and will prevail.”

12. At the same time, it would be relevant to notice here that clause 3 of Regulation 1 of the UGC Regulations, 2018, provides that if any University contravenes its provisions, the UGC after taking into consideration the cause, if any, shown by the University for such failure or contravention, may withhold from the University, the grants proposed to be made out of the Fund of the Commission, has been in existence even earlier. Taking note of the said clause, it has been held by the Hon'ble Supreme Court of India in **University of Delhi -vs- Raj Singh** [1994 Supp (3) SCC 516] as follows:-

“21. We now turn to analyse the said Regulations. They are made applicable to a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, every institution, including a constituent or an affiliated college recognised by the UGC in consultation with the University concerned, and every institution deemed to be a University. The said Regulations are thus intended to have the widest possible application, as indeed they must have if they



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are to serve the purpose intended, namely, to ensure that all applicants for the post of lecturer, from whichever University they may have procured the minimum qualifying degree, must establish that they possess the proficiency required for lecturers in all Universities in the country. This is what clause 2 of the said Regulations mandates, thus:

“No person shall be appointed to a teaching post in University ... in a subject if he does not fulfil the requirements as to the qualifications for the appropriate subject as provided in Schedule 1.”

The first proviso to clause 2 permits relaxation in the prescribed qualifications by a University provided it is made with the prior approval of the UGC. This is because the said Regulations, made under the provisions of Section 26(1)(e), define the qualifications that are ordinarily and not invariably required of a lecturer. The second proviso to clause 2 makes the application of the said Regulations prospective. Clause 3 of the said Regulations provides for the consequence of the failure of a University to comply with the recommendation made in clause 2 in the same terms as are set out in Section 14 of the UGC Act. The provisions of clause 2 of the said Regulations are, therefore, recommendatory in character. It would be open to a University to comply with the provisions of clause 2 by employing as lecturers only such persons



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as fulfil the requirements as to qualifications for the appropriate subject provided in the schedule to the said Regulations. It would also be open, in specific cases, for the University to seek the prior approval of the UGC to relax these requirements. Yet again, it would be open to the University not to comply with the provisions of clause 2, in which case, in the event that it failed to satisfy the UGC that it had done so for good cause, it would lose its grant from the UGC. The said Regulations do not impinge upon the power of the University to select its teachers. The University may still select its lecturers by written test and interview or either. Successful candidates at the basic eligibility test prescribed by the said Regulations are awarded no marks or ranks and, therefore, all who have cleared it stand at the same level. There is, therefore, no element of selection in the process. The University's autonomy is not entrenched upon by the said Regulations."

Though this germane aspect of the matter does not appear to have been canvassed in any of the subsequent cases mentioned supra, having due regard to the aforesaid enunciation of the law by the authoritative pronouncement of the Constitution Bench of the Hon'ble Supreme Court of India in **Dr.Preeti Srivastava -vs- State of M.P.** [(1999) 7 SCC 120], which has been quoted with approval by the Three Judges Bench in **Praneeth K. -vs-**



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University Grants Commission [(2021) 14 SCC 241], relying on the statutory change brought by clause 1.2 of Regulation 1 of the UGC Regulations, 2018, as interpreted in **Gambhirdhan K. Gadhvi -vs- State of Gujarat** [(2022) 5 SCC 179], it is now beyond any pale of doubt that the failure to ensure that the statutory provisions governing PT University are in conformity with the UGC Regulations, 2018, would necessarily result in invalidating any decision taken in the exercise of such powers to the extent of the inconsistency found.

13. The faint plea made on behalf of the Government of Puducherry and the selected Vice-Chancellor that the delayed challenge to the impugned appointment would have to be treated as acquiescence cannot be countenanced, as it would not, by any stretch of imagination, cure the initial defect, which renders it void *ab initio*. It is, no doubt, true that Public Interest Litigation would not ordinarily be entertained in service matters, but *locus standi* of a Petitioner would be inconsequential in Writ Petitions of *Quo Warranto*, as in these cases.



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14. In view of the foregoing discussion, it would not be possible to sustain the appointment of Dr. S.Mohan as the Vice-Chancellor of PT University through the 'Search Committee' constituted under Section 14(5) of the PTU Act by G.O. Ms. No. 03, Chief Secretariat (Higher and Technical Education) dated 20.01.2021 issued by the Government of Puducherry. In order to avoid any vacuum in carrying on the administration taking note of the facts that the Secretary (Higher and Technical Education), Government of Puducherry had not actually participated in the deliberations in the impugned appointment and that the said Dr. S.Mohan has not been shown to be ineligible or disqualified to hold that office, it is held that he shall be entitled to continue in the said post till a new incumbent is selected in conformity with law, or till 30.06.2024, whichever date falls earlier. It is needless to add here that by virtue of the *de facto* doctrine, as highlighted by the Hon'ble Supreme Court of India in **Gokaraju Rangaraju -vs- State of Andhra Pradesh** [(1981) 3 SCC 132], the decisions taken by Dr. S.Mohan as Vice-Chancellor of PT University shall not be invalidated merely by the reason of his selection by the 'Search Committee' being declared to be void in this order. It is also hastened to clarify here that the said Dr. S.Mohan, if he is



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otherwise eligible and not disqualified, shall be entitled to be considered for appointment in the fresh process undertaken.

15. That apart, the Government of Puducherry and PT University shall take immediate measures for carrying out amendments to the relevant statutory provisions governing PT University to bring it in conformity with the UGC Regulations, 2018, without brooking any more delay.

16. In the upshot, these Writ Petitions are ordered on the aforesaid terms. No costs.

(S.V.G., CJ.) (P.D.A., J.)
19.12.2023

Index : Yes/No
NCS : Yes/No
vjt



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To

1. The Chancellor/Lieutenant Governor,
Puducherry Technological University,
Raj Nivas,
Puducherry – 14.
2. The Secretary to the Chancellor,
Puducherry Technological University,
Puducherry – 605 001.
3. The Secretary to Government (Higher and Technical Education),
Government of Puducherry,
Chief Secretariat,
Puducherry – 1.
4. The Secretary to Government (Education),
Goubert Avenue,
Beach Road,
White Town,
Government of Puducherry,
Puducherry – 605 001.
5. The Director,
Directorate of Higher and Technical Education,
Tholkappiar Main Road,
Puducherry – 605 008.
6. The Vice Chancellor,
Puducherry Technological University,
Pillaichavadi,
Puducherry – 605 014.
7. The Registrar,
Puducherry Technological University,
Pillaichavadi,
Puducherry – 605 014.
8. University Grants Commission (UGC),
Bahadur Shah Zafar Marg,
New Delhi – 110 002.
9. The Dean,
Academic Courses,
IIT Madras,
Chennai – 36.



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESSAVALU,J.

vjt

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19.12.2023