



A.F.R
Reserved on 11.03.2015
Delivered on 17.03.2015

Court No.29

Case :- WRIT - A No. - 8189 of 2015

Petitioner :- Manoj Kumar Chauhan

Respondent :- State Of U.P. And 9 Ors.

Counsel for Petitioner :- Mahesh Narain Singh, Ashok Khare, Senior Advocate

Counsel for Respondent :- C.S.C., Anurag Khanna, Ravi Kant, Senior Advocate

Hon'ble Dilip Gupta, J.

Hon'ble Vinod Kumar Misra, J.

The Registrar of Chaudhary Charan Singh University, Meerut¹, which is governed by the provisions of the Uttar Pradesh State Universities Act, 1973², has filed this petition for quashing the orders dated 21 October 2014, 28 October 2014, 14 November 2014, 1 December 2014, 4 December 2014 and 13 January 2015 passed by the Vice-Chancellor of the University.

The petitioner, who was working as the Secretary of Muzaffarnagar Development Authority, was posted as the Registrar of the University by order dated 28 February 2014 passed by the State Government exercising powers under Section 16 of the Act read with Rule 6 of the Uttar Pradesh State Universities (Centralised) Service Rules, 1975³. He joined as the Registrar of the University on 2 March 2014. The Vice-Chancellor of the University issued an order dated 21 October 2014 relieving the petitioner, who had been working as the Registrar of the University, with immediate

1 the University

2 the Act

3 the Rules

effect. The senior-most Deputy Registrar was further directed to officiate as the Registrar of the University. This order was followed by an order dated 28 October 2014. The Vice-Chancellor directed that no files should be placed before the petitioner without taking approval from the Vice-Chancellor because even after the order dated 21 October 2014, the petitioner was continuing to function as the Registrar of the University and was asking for files from the Department. The Vice-Chancellor of the University also passed an order dated 14 November 2014 directing all the Assistant Registrars/Deputy Registrars/Section Officers not to place any document or file before the petitioner who had already been relieved.

The Special Secretary in the Department of Higher Education, however, issued an office order dated 29 November 2014 that the order dated 21 October 2014 issued by the Vice-Chancellor of the University relieving the petitioner has been withdrawn by the State Government and that the petitioner would continue to function as the Registrar of the University as he had been appointed by the State Government and could be removed only by the State Government. The petitioner was directed to ensure compliance of the aforesaid order passed by the State Government. The petitioner, pursuant to the aforesaid order, took charge from the officiating Registrar on 30 November 2014 and informed the State Government of this fact by the communication dated 1 December 2014.

The Vice-Chancellor of the University, however, sent a communication dated 1 December 2014 to the Special Secretary,

Department of Higher Education in the State Government pointing out that the State Government was not vested with any power to withdraw an order passed by the Vice-Chancellor of the University and, therefore, the order dated 29 November 2014 was not acceptable to the University. The State Government was asked to refer the matter to the Chancellor of the University and it was stated that the University would implement the order to be passed by the Chancellor of the University. This communication was followed by an office order dated 1 December 2014 issued by the Vice-Chancellor of the University. It was stated that the Vice-Chancellor had declined to accept the joining of the petitioner as the Registrar of the University pursuant to the order dated 29 November 2014 of the State Government and, therefore, the files of the University should not be submitted to the Registrar of the University. Thereafter, another order dated 4 December 2014 was issued by the Vice-Chancellor of the University. After making reference to the earlier orders dated 21 October 2014 passed by the Vice-Chancellor of the University, the order dated 29 November 2014 passed by the State Government and the communication dated 1 December 2014 of the Vice-Chancellor of the University, it was directed that since the convocation of the University was likely to be held on 6 December 2014, Professor Navin Chandra Lohni shall discharge the duties of the Registrar of the University till the senior-most Deputy Registrar returned from leave or a regular Registrar was appointed in the University. Such order was passed by the Vice-Chancellor of the

University exercising powers under Section 13(1)(a) read with Section 13(6) of the Act.

Thereafter, an order dated 13 January 2015 was passed by the Vice-Chancellor of the University directing that in the absence of the Acting-Registrar, the senior-most Deputy Registrar Dr. Dev Raj shall perform the functions of the Registrar of the University.

In the supplementary affidavit filed by the petitioner, the letter dated 10 February 2015 sent by the Under-Secretary to the Vice-Chancellor of the University, has been enclosed. The letter refers to the earlier communication dated 21 October 2014 sent by the Vice-Chancellor, the communication dated 29 November 2014 sent by the State Government for withdrawal of the order relieving the petitioner and for permitting him to function as the Registrar of the University as also the communication dated 4 December 2014 sent by the Vice-Chancellor of the University. It then states that under the provisions of the Act, the power to appoint the Registrar vests with the State Government and, therefore, the power to remove the Registrar is not vested with the Vice-Chancellor of the University. Accordingly, it has been stated that the action of the University in depriving the Registrar of the University from functioning is void.

The main issue, therefore, that arises for consideration in this petition is whether the Vice-Chancellor of the University can relieve a duly appointed Registrar by the State Government under the provisions of the Act.

Sri Ashok Khare, learned Senior Counsel appearing for the petitioner assisted by Sri M.N. Singh, submitted that in view of the provisions of section 16 and the Rules made under section 17 of the Act, the power to appoint a Registrar of the University is vested with the State Government. Learned Senior Counsel for the petitioner also submitted that in terms of Rule 36(2) of the Rules the power to start disciplinary proceedings and to impose the punishment of dismissal or removal from service or reduction in rank shall vest in the State Government and the Vice-Chancellor has the power to impose any other punishment. However, such action has not been taken by the Vice-Chancellor and a simple order relieving the petitioner from the post of Registrar has been issued by the Vice-Chancellor despite repeated directions from the State Government that he does not have the authority to do so. It is his submission that the aid of section 13 (1)(a) of the Act cannot be taken by the Vice-Chancellor for exercising a power which does not vest with him. Learned Senior Counsel for the petitioner also submitted that the aid of section 13(6) of the Act, which deals with urgent matters requiring immediate action, cannot also be taken as such a power can be exercised by the Vice-Chancellor of a University in respect of a power which vests with any officer or the authority or other body of the University empowered by or under this Act to deal with it and it does not confer a power on the Vice-Chancellor to deal with a matter which is required to be dealt with by the State Government.

Sri Ravi Kant, learned Senior Counsel appearing for the respondent-University assisted by Sri Anurag Khanna, however, defended the order passed by the Vice-Chancellor. Elaborating his submissions, learned Senior Counsel submitted that the Vice-Chancellor is the principal executive and academic officer of the University who exercises general supervision and control over the affairs of the University and it is while exercising such a power that the Vice-Chancellor had passed the impugned orders. In support of his contention, learned Senior Counsel placed reliance upon the judgment of the Supreme Court in **Sahiti & Ors. Vs. Chancellor, Dr. N.T.R. University of Health Sciences & Ors.**⁴. Learned Senior Counsel also pointed out that the word “supervision” used in section 13(1)(a) of the Act is akin to 'superintendence' which would include the power to forbear from doing a thing or directing some one else to do that thing in view of the decision of the Supreme Court in **State of Bihar & Anr. Vs. J.A.C. Saldanha & Ors.**⁵. Learned Senior Counsel also pointed out that likewise the word “control” used in section 13(1)(a) of the Act includes something in addition to mere superintendence and would mean control over the conduct and discipline of the Registrar in view of the decisions of the Supreme Court in **Bardakanta Mishra Vs. High Court of Orissa & Anr.**⁶ and **Chief Justice of Andhra Pradesh & Ors. Vs. L.V.A. Dixitulu & Ors.**⁷.

4 (2009) 1 SCC 599

5 (1980) 1 SCC 554

6 (1976) 3 SCC 327

7 (1979) 2 SCC 34

We have carefully considered the rival submissions advanced by learned counsel for the parties.

In order to appreciate the contentions, it would be useful to reproduce the relevant provisions of the Act and the Rules.

The Officers of the University have been defined in section 9 of the Act. They include, amongst others, the Vice-Chancellor and the Registrar of the University. Section 12 of the Act provides that the Vice-Chancellor of the University shall be appointed by the Chancellor. The powers and duties of the Vice-Chancellor of the University are contained in section 13 of the Act and the relevant provisions are as follows :

"13. Powers and duties of the Vice-Chancellor.--(1)

The Vice-Chancellor shall be the principal executive and academic officer of the University and shall--

(a) exercise general supervision and control over the affairs of the University including the constituent Colleges and the Institutes maintained by the University and its affiliated and associated colleges ;

.....

(4) It shall be the duty of the Vice-Chancellor to ensure the faithful observance of the provisions of this Act, the Statutes and Ordinance and he shall, without prejudice to the powers of the Chancellor under Sections 10 and 68 possess all such powers as may be necessary in that behalf.

.....

(6) Where any matter other than the appointment of teacher of the University is of urgent nature requiring immediate action and the same could not be immediately dealt with by any officer or the authority or other body of the University empowered by or under this Act to deal with it, the Vice-Chancellor may take such action as he may deem fit and shall forthwith report the action taken by him to the Chancellor and also to the officer, authority, or other body who or which in the ordinary course would have dealt with the matter :

Provided that no such action shall be taken by the Vice-Chancellor without the previous approval of

the Chancellor, if it would involve a deviation from the provisions of the Statutes or the Ordinances :

Provided further that if the officers, authority or other body is of opinion that such action ought not to have been taken, it may refer the matter to the Chancellor who may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner, as he thinks fit and thereupon, it shall cease to have effect or, as the case may be, take effect in the modified form, so however, that such annulment or modification shall be without prejudice to the validity of anything previously done by or under the order of the Vice-Chancellor :

Provided also that any person in the service of University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section, shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon, the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.”

Section 16 of the Act deals with the Registrar of the University. It provides that the Registrar shall be appointed in accordance with, and his conditions of service shall be governed by, Rules made under section 17 of the Act. Section 16 of the Act is reproduced below :-

“16. **The Registrar.**--(1) The Registrar shall be a wholetime Officer of the University.
 (2) The Registrar shall be appointed in accordance with, and his conditions of service shall be governed by, rules made under Section 17.
 (3) The Registrar shall have the power to authenticate records on behalf of the University.
 (4) The Registrar shall be responsible for the due custody of the records and the common seal of the University. He shall be *ex officio* Secretary of the Executive Council, the Court, the Academic Council and the Admissions Committee and of every Selection Committee for appointment of teachers of the University, and shall be bound to place before these authorities all such information as may be necessary for transaction of their business. He shall also perform such other duties as may be prescribed by the Statutes

and Ordinances as required, from time to time, by the Executive Council or the Vice-Chancellor but he shall not, by virtue of this sub-section be entitled to vote.

.....
 (6) The Registrar shall not be offered nor shall he accept any remuneration for any work in the University save such as may be provided for by rules made under Section 17.”

Section 16(A) of the Act which deals with the Controller of Examinations, provides that the Controller of Examinations shall be appointed by the State Government and section 16(B) deals with the duties of Registrar with respect to examinations in certain Universities. It provides that in Universities to which the provisions of section 16(A) do not apply, the duties of the Controller of Examinations shall be discharged by the Registrar and with respect to such Universities, the Registrar shall be deemed to be the Controller of Examinations for the purposes of the Act.

The relevant provisions of sections 16(A) and 16(B) of the Act are quoted below :-

“16-A. The Controller of Examination.--(1) This section applies only to the Universities of Lucknow, Allahabad, Gorakhpur and Kanpur and to any other University specified in that behalf by the State Government by notification in Official Gazette.

(2) The Controller of Examination shall be a whole time officer of the University.

(3) The Controller of Examination shall be appointed by the State Government by a notification published in the Official Gazette and his remuneration and allowances shall be paid by the University.

.....
16-B. Duties of Registrar with respect to examinations in certain Universities.--In the Universities to which the provisions of Section 16-A do not apply, the duties of the controller of Examinations shall be discharged by the Registrar and

with respect to such Universities the Registrar shall be deemed to be the Controller of Examinations for the purposes of this Act.”

Section 17 of the Act deals with centralisation of services of Registrars, Deputy Registrars and Assistant Registrars. It provides that the State Government shall by rules made by notification in the official gazette, provide for creation of a separate service of Registrars, Deputy Registrars and Assistant Registrars, common to all the Universities and regulate the recruitment to and the conditions of service of persons appointed to any such service. Section 17 of the Act is reproduced below :

“17. Centralisation of services of Registrars, Deputy Registrars and Assistant Registrars.--(1) The State Government shall by rules made by notification in the Official Gazette, provide for the creation of a separate service of Registrars, Deputy Registrars and Assistant Registrars, common to all the Universities and regulate the recruitment to and conditions of service of persons appointed to any such service:

Provided that any rules made under this sub-section may be made retrospectively to a date not earlier than October 31, 1975.

(2) When any such service is created, the persons then serving on the administrative posts of Registrars, Deputy Registrars and Assistant Registrars if confirmed before May 14, 1973 shall be absorbed in the service finally, and other persons serving on the said posts may, if found suitable, be absorbed in such service either provisionally or finally, and if, in the latter case, any person is not absorbed finally, then this services shall be deemed to have been terminated on payment of one month's salary as compensation.

(3) Where any person referred in sub-section (2) is absorbed in the service, the conditions of service applicable to him shall not be less advantageous than those applicable to him before his absorption, except

that he shall be liable to transfer from one University to another :

Provided that such absorption in the service shall not operate as a bar against holding or continuing to hold any disciplinary proceeding against a member of the service in respect of any act committed before the date of such absorption.

(4) All rules made under this section shall, as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session for a total period of not less than thirty days extending in its one session or more than one successive sessions and shall unless some later dated is appointed, take effect from the date of their publication in the Gazette subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.”

In exercise of the powers vested under section 17(1) of the Act, the State Government has framed the Rules. The Centralised service, as provided for in Rule 3, consists of : (i) Registrars; (ii) Deputy Registrars; and (iii) Assistant Registrars. Rule 6 provides for source of recruitment, absorption and termination of service of existing officers and is as follows :

“6. Source of recruitment, absorption and termination of service of existing officers.--Subject to the provisions of Rule 7 –

(a) thirty-three percent of the posts of Registrar, all posts of Deputy Registrar and thirty-three percentage of the posts of Assistant Registrar shall be filled in by promotion in the manner laid down in Rule 20 : and

(b) the remaining posts of Registrar and Assistant Registrar shall be filled in by direct recruitment in the manner laid down in Part V :

Provided that any fractions, obtained up to calculation of percentage in accordance with clause (a) shall be ignored :

Provided further that notwithstanding anything contained in this rule, the State Government may

appoint any Government Servant on deputation to any of the posts of the Centralised Service of a period not exceeding three years.”

Rule 7 provides for absorption of existing officers. The qualification for recruitment to any post in the centralised service is contained in Part-IV of the Rules. The procedure for direct recruitment is contained in Part-V of the Rules, while the procedure for promotion is contained in Part-VI. Rule 21 deals with appointment and is as follows :

“21. **Appointment.**--(1) On the occurrence of substantive vacancies, the Government shall make appointment to the various posts in the Centralised Service from the list prepared under Rule 19 or Rule 20, as the case may be.

(2) The Government may also make appointment in temporary vacancies for a period exceeding six weeks from among the persons from the list prepared under Rules 19 and 20.

(3) If no approved candidate is available for appointment the Government may either make a temporary appointment by deputation of an officer serving under the State Government or may appoint a candidate who is eligible under the rules for permanent recruitment to the Centralised Service. No such appointment shall extend beyond the period of one year without consultation with the Commission.

(4) If a vacancy arise in any post for a period not exceeding six weeks, temporary arrangement may be made by the Vice-Chancellor concerned by appointment of a person eligible under the rules.”

Rule 36 deals with disciplinary proceedings. Sub-rule (2) of Rule 36 provides that the power to start disciplinary proceedings and to impose the punishment of dismissal or removal from service or reduction in rank on the members of the centralised service shall vest in the State Government and for other punishments shall vest in the Vice-Chancellor of the University. Rule 36 is quoted below :

“36. **Disciplinary proceedings.**--(1) Subject to such modifications as the State Government may make from time to time and subject to the provisions of sub-rules (2) to (9), the rules relating to disciplinary proceedings, appeals and representations against punishment, applicable to the employees of the State Government shall *mutatis mutandis* apply to the members of the Centralised Service.

(2) The power to start disciplinary proceedings and to impose--

(a) the punishment of dismissal or removal from service or reduction in rank on the members of the Centralised Service shall vest in the State Government; and

(b) other punishments shall vest in the Vice-Chancellor of the University in which the member of such service is for the time being posted :

Provided that it shall be necessary to consult the Commission before passing an order imposing any of the punishments referred to in clause (a).

(3) Where disciplinary proceedings against a member of the Centralised Service have been started in accordance with the provisions of sub-rule (2)--

(a) by the Vice-Chancellor and after the completion of inquiry, he comes to a provisional conclusion that a punishment referred to in clause (a) of sub-rule (2) is called for, he shall refer the case along with his findings and recommendations to the State Government for orders;

(b) by the State Government and, during or after the completion of inquiry, it comes to a provisional conclusion that a punishment to which clause (b) of sub-rule (2) applies is called for, it shall refer the case to the Vice-Chancellor who shall pass such orders as he deems fit, and shall send a report of the action taken to the State Government.

(4) Notwithstanding anything contained in sub-rules (1) to (3), the State Government may direct the Vice-Chancellor of a University in which any member of the Centralised Service is for the time being posted to start disciplinary proceedings against him and to inform it of the result thereof or, as the case may be, refer the case to the State Government for its final orders under clause (a) of sub-rule (3).

(5) Where the Vice-Chancellor of any University wants to start disciplinary proceeding against a member of the Centralised Service, who has been transferred to some other University, he shall submit a

report to the State Government to that effect, and thereupon, the State Government may--

(i) itself proceed in accordance with clause (a) of sub-rule (2); or

(ii) direct the Vice-Chancellor of the first-mentioned University to start and conclude the inquiry in accordance with clause (b) of the said sub-rule or, as the case may be, refer the case to the State Government for its final order under clause (a) of sub-rule (3); or

(iii) direct the Vice-Chancellor of the University in which such member is for the time being posted to start and conclude the inquiry against such member and inform the State Government of the result thereof or, as the case may be, refer the case to the State Government for its final order under clause (a) of sub-rule (3).

(6) Where the Vice-Chancellor of a University is competent to start disciplinary proceedings under this rule, he may hold the inquiry himself or may appoint any other officer of the University for the purpose.

(7) The State Government may, at any stage, transfer any proceedings under this rule from one officer to another officer in the same University, or from the Vice-Chancellor of one University to the Vice-Chancellor of any other University and, unless any direction is issued to the contrary, the officer or the Vice-Chancellor to whom such proceedings are transferred shall continue the proceedings from the stage at which it was so transferred.

(8) During the course of inquiry under this rule, the Vice-Chancellor or the officer appointed by him as inquiry officer under sub-rule (6) may exercise all the powers of the inquiring authority under the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.

(9) Notwithstanding anything contained in these rules, it shall be lawful for the State Government to direct that the disciplinary proceedings against any member of the Centralised Service may be started in respect of any act or omission relating to the period before the date of his absorption in such service under Rule 7 and thereupon the provisions of sub-rules (1) to (8) shall *mutatis mutandis* apply.”

It is, therefore, clear that the Rules provide for a complete procedure for regulating the recruitment and conditions of service of persons appointed to the centralised service consisting of the Registrar, Deputy Registrars and Assistant Registrars. The Registrar has to be appointed in accordance with, and his conditions of service shall be governed by the Rules made under section 17 of the Act. Rule 6 of the Rules framed by the State Government under section 17 of the Act provides for the manner in which the appointments have to be made. The number of vacancies which have to be filled-in by promotion or by direct recruitment have been specified and the second proviso to Rule 6 stipulates that the State Government may appoint any Government servant on deputation to any of the post to centralised service for a period not exceeding three years. The petitioner, who is a P.C.S. Officer, was sent on deputation by the State Government. The Vice-Chancellor is not the appointing authority of the members of the centralised service which includes the Registrar of a University. Under Rule 21, it is the State Government which has to make the appointments.

The submission of learned Senior Counsel for the petitioner is that once the petitioner had been sent by the State Government to the University on deputation, the Vice-Chancellor of the University does not have the power to relieve him and direct that the Deputy Registrar shall function as the Registrar of the University, while the contention of learned Senior Counsel appearing for the respondent-University is that in view of the provisions of section 13(1)(a) and section 13(6) of the Act,

the Vice-Chancellor while exercising general supervision and control over the affairs of the University, has the power to relieve the Registrar of the University and direct the Deputy Registrar of the University shall discharge the duties of the Registrar.

The submission advanced by learned Senior Counsel for the petitioner deserves acceptance. It is not the contention of learned Senior Counsel for the respondent-University that the State Government does not have the power to appoint the Registrar of the University. His contention is that the Vice-Chancellor of the University can relieve the Registrar of the University in view of the provision of section 13(1)(a) of the Act which provides that the Vice-Chancellor shall exercise general supervision and control over the affairs of the University. Section 13(1) (a) of the Act does not confer any power on the Vice-Chancellor to exercise general supervision and control over such affairs of the University over which the Vice-Chancellor does have not the jurisdiction. As noted above, the State Government alone is the appointing authority of the Registrar. Section 16 deals with the Registrar and specifically provides that the Registrar shall be appointed in accordance with, and his conditions of service shall be governed by, Rules made under section 17. Under the second proviso to Rule 6 of the Rules, the State Government may appoint any government servant on the post of Registrar of the University. The petitioner had been appointed as the Registrar of the University under the proviso to Rule 6 of the Rules. Under Rule 36, only the State Government can start disciplinary proceedings and impose the

punishment of dismissal or removal from service or reduction in rank. It is a settled principle that when the Act prescribes a particular body to exercise a power, it must be exercised only by that body and cannot be exercised by others unless it is delegated. The Supreme Court in **Marathwada University Vs. Seshrao Balwant Rao Chavan**⁸ examined whether the Vice-Chancellor of the University, in view of the provisions of section 11(6) of Marathwada University Act, 1974 which provides that it shall be lawful for the Vice-Chancellor as the principal executive and academic officer to regulate the work and conduct of the officers and of the teaching, academic and other employees of the University, could take disciplinary action against the officers of the University when such a power was vested under section 24 in the Executive Council of the University. The Supreme Court held that the Vice-Chancellor cannot take disciplinary action for removal of the officers because such a power was specifically vested with the Executive Council. The relevant observations are as follows :

“Counsel for the appellant argued that the express power of the Vice-Chancellor to regulate the work and conduct of officers of the University implies as well, the power to take disciplinary action against officers. We are unable to agree with this contention. **Firstly, the power to regulate the work and conduct of officers cannot include the power to take disciplinary action for their removal.** Secondly, the Act confers power to appoint officers on the Executive Council and it generally includes the power to remove. This power is located under Section (xxix) of the Act. It is, therefore, futile to contend that the Vice Chancellor can exercise that power which is conferred on the Executive Council. **It is a settled principle that when the Act prescribes a particular body to**

8 (1989) 3 SCC 132

exercise a power it must be exercised only by that body. It cannot be exercised by others unless it is delegated.

(emphasis supplied)

A Full Bench of this Court in **Committee of Management of R.K. College, Shamli, Muzaffarnagar & Anr. Vs. Vice-Chancellor, Meerut University, Meerut & Ors.**⁹ examined whether the Vice-Chancellor of the University could, under sections 13(1) and 13(6) of the Act, supersede the Committee of Management of an affiliated College and appoint an Administrator. The Full Bench observed that it is the State Government alone which has such a power under section 13 of the Act and, therefore, the Vice-Chancellor cannot supersede the management of an affiliated college and appoint an Administrator. The relevant observations are :-

“With great respect, we are unable to share the view expressed therein. We have seen that the Universities Act does not confer power to supersede the management of a college, on any officer, authority or other body of the University. If an officer, authority or other body of the University itself has no power to supersede the management of a college and appoint an Administrator, we fail to understand how the Vice-Chancellor could exercise such powers by calling into assistance the emergency power conferred upon him under Section 13(6). The Vice-Chancellor is statutory authority. His power must be located within the scope of the Universities Act. He has no jurisdiction to exercise any power which has not been expressly or impliedly conferred upon him.”

The aforesaid decisions clearly hold that the Vice-Chancellor of a University can only exercise that power which is conferred upon him by

9 1987 UPLBEC 172

the Act and he cannot exercise a power which is specifically conferred on the State Government.

The decision of the Supreme Court in *Sahiti* (supra) does not help the respondents. The issue before the Supreme Court was whether the Vice-Chancellor of the University had the jurisdiction under section 12(2) and 12(3) of Dr. N.T.R. University of Health Sciences Act to order re-verification of the answer scripts. Sub-section (2) of section 12 provides that the Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University. Though sub-sections (2) and (3) of Section 12 of Dr. N.T.R. University of Health Sciences Act are similar to sub-sections (1) and (6) of section 13 of the Act but it was not the case that the power of re-evaluation of the answer books was vested in any other authority or the State Government. It is in this context that the Court held that re-evaluation of the answer scripts, in the absence of any specific provision, is perfectly legal and permissible and the Vice-Chancellor could exercise such a power. As noticed above, the Vice-Chancellor does not have the power to remove the Registrar of the University or to order that he shall stand relieved. The provisions of Section 13(1)(a) of the Act will, therefore, not come to the aid of the Vice-Chancellor for exercising such a power.

The decisions of the Supreme Court in **Baradakanta Mishra (supra)**, **Chief Justice of Andhra Pradesh (supra)** and **J.A.C.**

Saldanha (supra) would also, for the same reason, not help the respondents.

The Vice-Chancellor of the University does have a limited jurisdiction under rule 36(2)(b) to start disciplinary proceedings and to impose punishment other than the punishments enumerated in rule 36(1)(2)(a) but such a power to start disciplinary proceedings has not been resorted to by the Vice-Chancellor of the University. In such circumstances, the Vice-Chancellor of the University could not have issued any direction for relieving the petitioner who had been duly appointed as the Registrar of the University by the State Government. The State Government was, in the facts and circumstances of the case, justified in directing that the orders passed by the Vice-Chancellor of the University shall stand withdrawn and the petitioner should be permitted to work as a Registrar of the University.

It is, therefore, not possible to sustain the impugned orders dated 21 October 2014, 28 October 2014, 14 November 2014, 1 December 2014, 4 December 2014 and 13 January 2015.

Thus, for all the reasons stated above, the orders dated 21 October 2014, 28 October 2014, 14 November 2014, 1 December 2014, 4 December 2014 and 13 January 2015 passed by the Vice-Chancellor of the University are set aside. The petitioner shall be permitted to work as the Registrar of the University.

The writ petition is, accordingly, allowed.

Date:17.03.2015
SK/GS

(Vinod Kumar Misra, J.)

(Dilip Gupta, J.)