

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR.JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

W.P.(PIL) No.95 of 2023 along with
WRIT PETITION No.17740 of 2023

W.P.(PIL) No.95 of 2023:

MunavathuDharu Naik,
S/o MunavathuSakriya, Aged 49 years,
Occ: Ex-Chairman, A.P. Scheduled Tribe
Cooperative Finance Corporation (APSTCFC),
R/o 5-42, Achmmakunta (Thanda),
Koppunur, Macherla Mandal,
Palnadu District, Andhra Pradesh & another.

... Petitioners

Versus

Office of the Honourable Chancellor,
Rep by its Principal Secretary,
Governor's Secretariat, Raj Bhavan,
Andhra Pradesh, and six others.

... Respondents

Mrs. Kavitha Gottipati, Counsel for the petitioners.

Advocate General, for respondent Nos.1 to 4.

Mr. S. Harinath Reddy, Standing Counsel for respondent No.5.

Mr. P. Raja Sekhar, counsel for respondent No.6.

Deputy Solicitor General of India, for respondent No.7.

W.P. No.17740 of 2023:

Dr. G. Ravishankar Reddy,
S/o G. Bal Reddy, Aged 63 years,
Occ: Scientist (Rtd.), ICFRE,
R/o 1-71/26, Flat No. 502,
Satyam Enclave East, Near Harsha Hospital,
Pet Basheerbad, Qutubullapur,
Ranga Reddy District, Telangana - 500054

... Petitioner

Versus

The State Of Andhra Pradesh,
rep by its Chief Commissioner, RBKs &
Special Chief Secretary to Government,
Agriculture and Cooperation (Horti & Seri) Department,
Secretariat Buildings, Velagapudi, Thullur Mandal,
Amaravathi, Guntur District, and two others.

...Respondents

Mrs. A.V.S. Laxmi, Counsel for the petitioner.

Government Pleader for Agriculture and Cooperation, for respondent
No.1.

Mr. P. Raja Sekhar, counsel for respondent No.2.

Mr. S. Harinath Reddy, Standing Counsel for respondent No.3.

DATE : .06.2024

PER DHIRAJ SINGH THAKUR, CJ:

Since common question of law and facts are involved in both these writ petitions, the same are taken up together for disposal by way of a common judgment and order.

2. The petitioners in this set of petitions challenge the G.O.Ms.No.29, dated 28.06.2023, issued by the Government whereby private respondent No.6- Dr. Janakiram Tholeti was reappointed as the Vice Chancellor of Dr. YSR Horticulture University and seek issuance of a writ of *quo warranto* challenging the Government Order primarily on two grounds:

- i. The reappointment of the said respondent No.6 was ordered without subjecting him to a fresh selection process; and
- ii. The reappointment was unsustainable inasmuch as even the initial appointment of the said respondent was not in accordance with the UGC regulations as the Search-cum-Selection-Committee constituted by the Government for selecting respondent No.6 did not have a nominee of the Chairman of the University Grants Commission as was required under Regulation 7.3 of the UGC Regulations, 2018.

3. At this stage, it would be necessary to give in brief the material facts in the backdrop of which the present controversy has arisen:

G.O.Rt.No.183, dated 21.03.2018, came to be issued by the Government in exercise of the powers conferred under Section 26(1) of the Dr. YSR Horticultural University Act, 2007, (for short, "the Act of

2007”) constituting a Search Committee consisting of the Chief Secretary, Government of Andhra Pradesh; Sri A. Rajendra Prasad, Vice Chancellor, Acharya Nagarjuna University, Guntur (State nominee); and Director General, Indian Council of Agricultural Research (ICAR), New Delhi, or his nominee to submit a panel of names for appointment as Vice Chancellor of Dr. YSR Horticulture University.

4. Subsequently, another G.O.Rt.No.215, dated 03.04.2018, came to be issued by the Government reconstituting the Search Committee, which this time consisted of Prof. Vidyavathi, former Vice Chancellor, Kakatiya University, instead of Sri A. Rajendra Prasad, apart from the Chief Secretary, Government of Andhra Pradesh and the Director General, ICAR.

Pursuant to the aforementioned Government Order, an advertisement notice, dated 08.05.2018, came to be issued by the Government of Andhra Pradesh inviting applications for the said post of Vice Chancellor.

5. Subsequently, it appears from the record that the Government issued another Government Order bearing G.O.Rt.No.714 dated 04.11.2019, reconstituting the Search Committee yet again consisting of:

- i. Chief Secretary, Government of Andhra Pradesh;

- ii. Sri P. Raghava Reddy, Ex-Vice Chancellor, Acharya N.G. Ranga Agricultural University (State nominee); and
 - iii. Director General, Indian Council of Agricultural Research (ICAR), New Delhi or his nominee.
6. Another notification, dated 28.11.2019, subsequently came to be issued, inviting applications yet again for the post of Vice Chancellor of the said University with a rider that those persons who had earlier applied pursuant to the notification, dated 08.05.2018 need not apply again. Based upon the recommendations of the Search Committee so constituted, respondent No.6 came to be appointed vide G.O.Ms.No.63, dated 08.06.2020, as Vice Chancellor of the Dr. YSR Horticultural University for a period of three years from the date of assumption of charge, which was to expire on 29.06.2023.
7. Respondent No.6 appears to have addressed a communication, dated 16.05.2023, to the Special Chief Secretary to Government, Agriculture & Cooperation (Horti & Seri) Department, requesting that his tenure, which was to come to an end on 29.06.2023, be extended for another three years with effect from 30.06.2023 as per the Statutes of the University. The extension was sought by respondent No. 6 based upon the contributions stated to have been made by him during his tenure as such Vice Chancellor.

Responding to the request of respondent No.6, the Government issued G.O.Ms.No.29, dated 28.06.2023, ordering the reappointment of respondent No.6 as Vice Chancellor of the said University for another term of three years with effect from 01.07.2023.

8. At this stage, it is deemed appropriate to refer to certain provisions of the Dr. YSR Horticultural University Act, 2007, and in particular Section 26 of the said Act, the Statutes framed thereunder, as also the relevant UGC Regulations, which held the field from time to time.

Section 26(1) of the Act envisages as under:

“26. Vice-Chancellor - (1) The Vice-Chancellor shall be a whole time officer of the University and shall be appointed by the Chancellor from the panel of eminent scientists in Horticulture / Agriculture drawn by the Search Committee. The Search Committee shall consist of the following persons:

(i) Chief Secretary to the Government of Andhra Pradesh.

(ii) One nominee of the State Government Who shall be of eminence in the sphere of Horticulture Science and shall not be connected in any manner with this University or its colleges and shall not be below the rank of Vice-Chancellor.

(iii) Director General, Indian Council of Agricultural Research or his nominee.

...”

9. Section 55 of the Act further envisages framing of the Statutes by the Government with regard to matters set out in Section 54, and in particular Section 54(c), which envisages as under:

“54. Statutes- Subject to the provisions of this Act, the statutes may provide for all or any of the following matters, namely:-

...

(c) terms and conditions of service of the Vice-Chancellor;

...”

10. In purported exercise of the powers vested in terms of Sections 54 and 55 of the said Act, the Government framed the Statutes. Statute 12 envisages as under:

“12. Term of Vice-Chancellor: The Vice-Chancellor appointed in the manner laid down in sub-section (1) and (2) of Section 26 of the Act, will be eligible for reappointment for another term of three (3) years.”

The reappointment ordered by the Government vide G.O.Ms.No.29, dated 28.06.2023, in favour of respondent No.6 appears to be ordered in terms of the aforementioned provisions of the Act and the Statutes.

11. In exercise of the powers conferred under clauses (e) and (g) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956, the University Grants Commission framed the Regulations, namely ‘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, 2010’.

According to Regulation 7.3.0 of Regulations of 2010, a person of the highest level of competence, integrity, morals and institutional commitment is envisaged to be appointed as Vice Chancellor, who should be a distinguished academician with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organisation.

Regulation 7.3.0(ii) further envisages as under:

“ii. The selection of Vice-Chancellor should be through proper identification of a Panel of 3-5 names by a Search Committee through a public Notification or nomination or a talent search process or in combination. The members of the above Search 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 committee must give proper weightage to 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. In respect of State and Central Universities, the following shall be the constitution of the Search Committee.

- a) a nominee of the Visitor/Chancellor, who should be the Chairperson of the Committee.
- b) a nominee of the Chairman, University Grants Commission.
- c) a nominee of the Syndicate/ Executive Council / Board of Management of the University.”

12. The aforementioned Regulations were amended on 13.06.2013 by virtue of the UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) (2nd Amendment) Regulations, 2013. Clause 7.3.0 in the 2nd Amendment Regulations of 2013 underwent some change to the extent that the constitution of the Search Committee would be as per the Acts/Statutes of the concerned University. For purposes of reference, Clause 7.3.0 of the 2nd Amendment Regulations of 2013 is reproduced hereunder:

“ii. The selection of Vice Chancellor should be through proper identification of a panel of 3-5 names by a Search Committee through a public notification or nomination or a talent search process or in combination. The members of the above Search 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 Committee must give proper weightage to 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. The constitution of the Search Committee could be as per the Act/ Statutes of the concerned university.”

13. By virtue of notification, dated 18.07.2018, the UGC notified yet again the Regulations (hereinafter called “the Regulations of 2018”) which *inter alia* envisaged the method of appointment of Vice Chancellor in the following terms:

“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 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.

....”

14. Admittedly on the date when the Government constituted the Search Committee afresh on 04.11.2019, and issued notification inviting applications from eligible candidates, the UGC regulations which were applicable were the regulations of 2018, which clearly envisaged the presence of a nominee of the Chairman of the University Grants

Commission in the Search Committee which ordinarily should consist of persons of eminence in the sphere of higher education, besides not being connected in any manner with the University concerned or its colleges. For purposes of facility of reference, the provisions of Section 26 of the State Act and the UGC Regulations of 2018 are reproduced in a comparative chart hereinbelow:

Section 26 of Act No.30 of 2007 (State Legislation)	Clause 7.3 of UGC Regulations 2018 (Central legislation)
<p>26. Vice-Chancellor - (1) The Vice-Chancellor shall be a whole time officer of the University and shall be appointed by the Chancellor from the panel of eminent scientists in Horticulture / Agriculture drawn by the Search Committee. The Search Committee shall consist of the following persons:</p> <p>(i) Chief Secretary to the Government of Andhra Pradesh.</p> <p>(ii) One nominee of the State Government Who shall be of eminence in the sphere of Horticulture Science and shall not be connected in any manner with this University or its colleges</p>	<p>7.3. Vice Chancellor:</p> <p>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.</p> <p>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</p>

<p>and shall not be below the rank of Vice-Chancellor.</p> <p>(iii) Director General, Indian Council of Agricultural Research or his nominee.</p>	<p>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 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.</p>
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15. In the backdrop of the aforementioned factual and legal position, the petitioners base their challenge on two grounds. Firstly, that respondent No.6 could not have been reappointed without going through selection process yet again in terms of the UGC regulations, and secondly that assuming for any reason that the reappointment could be

done without subjecting the existing Vice Chancellor to a fresh process of selection, since the earlier selection of respondent No.6 was in gross violation of the UGC regulations which envisaged the presence of a nominee of the Chairman of the University Grants Commission in the Search Committee, such a selection being based upon recommendations of a Search-cum-Selection Committee constituted in violation of the UGC Statutes, would be unsustainable in law.

16. Learned counsel for the petitioners placed reliance upon the judgments of the Hon'ble Supreme Court rendered in **Gambhirdan K. Gadhvi v. State of Gujarat**¹ and **Professor (Dr.) Sreejith P.S. v. Dr. Rajasree M.S.**² to bring home the point that notwithstanding the fact that the State Act allowed the appointment of the Vice Chancellor by the State Government, it would have to be as per the UGC regulations and any appointment of the Vice Chancellor in violation of the UGC regulations would be void *ab initio*.

17. Learned counsel for the respondent – State as also private respondent No.6 would urge that insofar as the reappointment of the Vice Chancellor in terms of the Statute 12 framed under the Act of 2007 is concerned, there would be no need for an existing Vice Chancellor to go through the rigmarole of the selection process yet again. Reliance in this

¹ (2022) 5 SCC 179

² 2022 SCC OnLine SC 1473

regard was placed on **Dr. Premachandran Keezhoth v. Chancellor, Kannur University**³. On the issue as to whether the reappointment would be sustained in law in view of the fact that there was no nominee of the Chairman of the UGC in the Search-cum-Selection Committee based upon which respondent No.6 came to be initially appointed, it was sought to be urged that the UGC regulations did not have any mandatory force in the light of the fact that the process of selection as prescribed by the Act of 2007 alone had to be followed.

Per contra, learned counsel for the petitioners placed reliance upon **Professor (Dr.) Sreejith P.S.** (supra) to bring home the point that the procedure prescribed under the UGC regulations was to be followed mandatorily and that any appointment made on the recommendation of the Search Committee constituted contrary to the provisions of the UGC Regulations, would be void *ab initio*.

18. Heard counsel for the parties.

Two issues arise for our consideration in the present case:

- i. Whether the reappointment of respondent no. 6 as Vice Chancellor is unsustainable inasmuch as it was made without subjecting the said respondent to a regular selection process; and

³ 2023 SCC OnLine SC 1592

- ii. Assuming that the reappointment was possible without subjecting respondent No. 6 to a fresh selection process, whether the reappointment becomes unsustainable inasmuch as the initial selection of respondent No.6 as Vice Chancellor was contrary to the UGC Regulations, as the Search-cum-Selection Committee did not include a nominee of the Chairman of the UGC.

19. On the first issue, it is no longer *res integra* that when it comes to reappointing a Vice Chancellor in terms of the Act or the Statutes, it would not be necessary to subject him to a fresh process of selection unless it is so specifically provided. The Supreme Court in the case of **Dr. Premachandran Keezhoth** (supra) was considering a similar issue where the reappointment of the Vice Chancellor of the Kannur University came to be challenged on the ground that the reappointment without subjecting the Vice Chancellor to a fresh process of selection was invalid. It was, in those circumstances, held:

“60. Reappointment of Vice-Chancellor has been provided under sub-section (10) of Section 10 of the Act, 1996. The proviso to sub-section (10) of the Act, 1996 further makes the intention of the legislature to provide for reappointment more clear. The legislature has not thought fit to prescribe any particular procedure or any particular mode or manner of reappointment. The UGC Regulations are also silent as regards the reappointment of Vice-Chancellor.

61. The language of sub-section (10) of Section 10 of the Act, 1996 is plain and simple. The provision does not confer right to seek reappointment. There is only one way of reading the provision, which is, that a Vice-Chancellor once appointed, subject to the proviso to sub-section (10) of Section 10, is eligible to be considered for reappointment. What this implies is that an incumbent Vice-Chancellor may not have to reapply along with other candidates and compete for the same position once again. Reappointment essentially means the incumbent Vice-Chancellor would receive another term of four years if the Chancellor deems fit without reopening the position for new applications or without constituting a select committee. "Re" means again, and is freely used as prefix. It gives colour of "again" to the verb with which it is placed. "Reappointment" is an act or process of being appointed again.

62. Where the appointment is to be made for the first time or where the same person is being appointed as a Vice-Chancellor for the second time, but not in continuation of the first term, the procedure provided under Section 10 of the Act, 1996 must be gone through. However, in the case of reappointment immediately upon the tenure of the first term coming to an end, there is no requirement to initiate the entire process of appointment as provided under Section 10 of the Act, 1996.

...

68. Thus, we hold that it is not necessary to follow the procedure of appointment as laid down in Section 10 of the Act, 1996 for the purpose of reappointment."

Reliance was also placed upon the Apex Court judgment in the case of **State of West Bengal v. Anindya Sundar Das**⁴ whereby the

⁴2022 SCC OnLine SC 1382

Apex Court was considering the challenge to the reappointment of the Vice Chancellor of the Calcutta University. It was held:

“51. It would be appropriate to also analyse whether the re-appointment of the VC has to follow the same process as a fresh appointment, by setting up a selection committee under Section 8(1) of the Act, as indicated by the Chancellor.

52. Section 8(6) stipulates the manner in which a vacancy in the office of the VC which occurs by reason of death, resignation, expiration of the term of office, removal or otherwise shall be filled up. The provision indicates that such vacancy shall be filled up in accordance with the provisions of sub-Section (1) of Section 8. Section 8(6) has to be read in conjunction with Section 8(1) since the former expressly refers to the latter. The reference to the provisions of sub-Section (1) for filling up a vacancy on the expiration of the term of office will not obviously apply to a case of reappointment because the procedure contemplated by Section 8(1)(b) of a search committee would not attach to a reappointment. On this aspect, the High Court has correctly disagreed with the petitioner before it and noted that amended Section 8(2)(a) which provides for the re-appointment of a VC for another term does not require that the procedure prescribed in Section 8(1) has to be followed for re-appointment.”

20. Following the ratio clearly spelt out in the aforementioned judgments, we have no hesitation in holding that in the absence of any specific provision in the statutes framed by the Government, prescribing the need to subject the incumbent Vice Chancellor to a fresh process of selection, it would not be necessary for the Government to follow that procedure for purposes of reappointment. We may, however, point out

that in the present case, there is no specific provision envisaging reappointment in the parent Act (the Act of 2007), in contradistinction to the provisions for reappointment which were contained in the University Acts, which were the subject matter of consideration before the Apex Court discussed hereinabove. However, in the absence of a specific challenge to the vires of the Statutes, we have no hesitation in holding that the Vice Chancellor could have been reappointed without subjecting him to a fresh process of selection.

21. The second issue that falls for our consideration is whether the earlier appointment of respondent No.6, being not in consonance with the UGC Regulations, renders his reappointment unsustainable. In this case, it is not denied that there was no nominee of the Chairman of the University Grants Commission in the Search-cum-Selection Committee, which was otherwise a requirement as per Clause 7.3 of the UGC Regulations of 2018.

The argument that the UGC Regulations were not mandatory and that the selection process could have been carried forward by following the provisions of Section 26(1) of the Horticultural University Act, 2007, without the presence of a nominee of the Chairman of the UGC as required under UGC Regulations of 2018, is clearly untenable.

It is settled that under the UGC Act, every rule and regulation made under the Act shall be laid before each House of Parliament, and therefore, being a subordinate legislation, the UGC Regulations become part of the Act. In case of any conflict between the State legislation and the Central legislation, the Central legislation shall prevail by applying the principle of repugnancy as enunciated in Article 254 of the Constitution, as the subject 'education' is in the Concurrent List (List III) of Seventh Schedule to the Constitution. Reference in this regard can be made to **Gambhirdan K. Gadhvi** (supra).

22. Testing the facts of the present case on the touchstone of the law discussed hereinabove, it thus becomes clear that in the absence of a nominee of the Chairman of the University Grants Commission in the Search-cum-Selection Committee, the recommendations made by such a committee would be void *ab initio*, as has been held by the Apex Court in the case of **Professor (Dr.) Sreejith P.S.** (supra) in para No.24:

“24. In view of the above two binding decisions of this Court, any appointment as a Vice Chancellor made on the recommendation of the Search Committee, which is constituted contrary to the provisions of the UGC Regulations shall be void *ab initio*. ...”

23. If that be so and the appointment takes place on the basis of recommendation of a Search Committee, which is constituted contrary to the provisions of the UGC regulations, notwithstanding the fact that the

initial period of appointment has come to an end followed by the reappointment of the Vice Chancellor for a second term, yet the reappointment on that basis cannot be upheld and would therefore become unsustainable in law.

24. Be that as it may, we hold that the initial appointment and consequently the subsequent reappointment of private respondent No.6, being contrary to the UGC regulations, are bad in law.

25. Consequently, the writ petitions are allowed. There shall be a writ of *quo warranto* declaring the appointment of respondent No.6 as Vice Chancellor of Dr. YSR Horticulture University as void *ab initio*, and consequently, the reappointment shall stand quashed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

R. RAGHUNANDAN RAO, J

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**HON'BLE MR.JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO**

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