

KERALA RAJ BHAVAN
Proceedings of the Chancellor,
Sree Sankaracharya University of Sanskrit
Dated 07.03.2024
Present: Shri. **Arif Mohammed Khan**
(File No. GS6-1225/2022)

ORDER

- Ref: 1. Notification dated 02.09.2021 constituting the Search Committee.
2. Notification dated 07.03.2022 appointing the Vice Chancellor, Sree Sankaracharya University of Sanskrit.
3. Judgment dated 21.10.2022 of the Hon'ble Supreme Court in Sreejith P S Vs Rajasree M S.
4. Notice dated 24.10.2022 issued to Dr M.V. Narayanan, Vice Chancellor, Sree Sankaracharya University of Sanskrit.
5. Judgment in W P (C) No. 34848 of 2022 dated 25.01.2024
6. Hearings held on 12.12.2022 and 24.2.2024 by the Chancellor.

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The Chancellor of Sree Sankaracharya University of Sanskrit, as per the 1st referred notification constituted a Search Committee in terms of Section 24 (3) of the Sree Sankaracharya University of Sanskrit Act, 1994 for the selection of the Vice Chancellor to be appointed in the University. The members of the Search Committee were Dr. V.K Ramachandran (nominee of the State Government), Professor Shrinivasa Varakhedi (nominee of the UGC) and Prof (Dr) Rajan Gurukkal P M (nominee of the Syndicate). The Committee recommended the single name of Dr M V Narayanan for the post of the Vice Chancellor. He was appointed to the post as per the 2nd referred notification. He was appointed on 07.03.2022.

2. The Hon'ble Supreme Court while considering a challenge made against the appointment of the Vice Chancellor in A P J Abdul Kalam Technological University in Kerala on the grounds of improper constitution of the Search Committee and the

unanimous recommendation of the candidate to the post, held that the appointments of Vice Chancellors made in violation of the University Grants Commission [herein after referred to UGC for short] Regulations shall be void ab initio.

3. In the wake of the 3rd referred judgment, the Chancellor of the Universities in Kerala verified the different appointments made to the post of Vice Chancellors in the State and found that some of the appointments were made contrary to the UGC Regulations. The Hon'ble Supreme Court, in its judgment referred as 3rd above referred to other judgments covering the appointment of Vice Chancellors and the different Commission Reports to highlight the importance of the post of Vice Chancellor in a University. The judgments stressed upon the need to ensure that the appointments made to the post of Vice Chancellors shall be strictly in terms of the UGC Regulations. The various judgments rendered by the Hon'ble Court also highlighted the need to have the Search Committee consisting of eminent persons from the field of higher education.

4. The Hon'ble Supreme Court having laid down the law in the matter, it became imperative on the part of the Chancellor of the University to ensure that the appointment of the Vice Chancellors under him is in tune with the provisions of the UGC Regulations and the law as laid down by the Apex Court. In the wake of the declaration by the Hon'ble Supreme Court that the appointment of the Vice Chancellors, in violation of the UGC Regulations are void ab initio, it also became necessary to have validly appointed Vice Chancellors in the Universities.

5. In the above circumstances the Chancellor of Sree Sankaracharya University of Sanskrit, on noting that the appointment of Dr M V Narayanan for the post of Vice Chancellor was contrary to the UGC Regulations, issued the 4th referred notice to Dr M V Narayanan proposing to remove him from the post of Vice Chancellor, as his appointment is void ab initio in the light of the judgment referred 3rd above.

6. Dr M V Narayanan, challenged the notice before the Hon'ble High Court in W P(C).No 34848 of 2022 and the Hon'ble High Court on 3.11.2022 in an Interim Order passed in the matter permitted the submission of explanations to the Show Cause notice issued by the Chancellor by 07.11.2022. Thereafter on 08.11.2022 the Hon'ble Court taking note of the submission of the explanations and the submissions by the petitioners

that they have sought a hearing in the matter, passed an interim order to the effect that the final orders by the Chancellor shall not be issued until the writ petition is disposed of. The Interim Order issued by the Hon'ble Court continued till the disposal of the Writ Petition on 25.01.2024.

7. Dr M V Narayanan was heard by the Chancellor on 12.12.2022 and no orders were issued in the light of the interim order issued by the Hon'ble Court in the above-mentioned writ petition. The Hon'ble Court finally disposed of the writ petition through the 5th referred judgment in the following manner:

"Accordingly, these writ petitions are ordered directing the Chancellor to consider the objections filed by the petitioners and decide on the legality/jurisdiction to issue the show cause notices as well as on the merits of the alleged violation of the UGC Regulations in terms of the law laid down in Rajasree's case (supra). The above exercise shall be completed within six weeks from the date of receipt of a copy of this judgment. Needless to say, the petitioners will be afforded a reasonable opportunity for hearing, and they will cooperate to decide the issue within the time fixed by this Court."

8. In the light of the above directions, Dr M V Narayanan was given an opportunity of being heard on 24.2.2024. In the hearing he was represented by Sri Musthafa, Advocate. Sri Gopakumar, Joint Secretary, University Grants Commission and Sri S Krishnamoorthy, Counsel for the UGC also attended the hearing. Written notes of submissions was also presented to the Chancellor at the time of the hearing.

9. The counsel representing Dr M.V Narayanan primarily contended that the Chancellor, while exercising the powers conferred on the Chancellor cannot have any other authority, other than what is contemplated in the Act and the Statutes. The position was canvassed to contend that the Chancellor lacks the authority to review the order of appointment issued by him and also the proposition that the Vice Chancellor can be removed only in the manner provided in the Sree Sankaracharya University of Sanskrit Act and Statutes. The Counsel also contended that the judgment referred 3rd above cannot have any application in the present case as the decision was rendered in a challenge made against the appointment of a particular person to the post of Vice Chancellor. The findings and directions are binding on the parties included in the litigation and the same need not

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be invoked to unseat a Vice Chancellor who was appointed by the Chancellor himself. He also contended, relying on the definition of officers given in Sree Sankaracharya University of Sanskrit Act, that the Vice Chancellor is not a teacher and the UGC Regulations of 2018 which primarily deals with the minimum standards for the post of teacher cannot have any application in the present case. A challenge was also made regarding the power of the UGC to issue regulations governing the appointment of Vice Chancellors, who is not a teacher but an officer of the University.

10. Sri S Krishnamoorthy, Counsel for the UGC expressed the view that the appointments made in violation of the UGC Regulations are void ab initio. In the case of a single name recommendation by the Search Committee constituted to select the Vice Chancellors, such appointments are against the UGC Regulations which warrant the submission of a panel to the Chancellor by the Search Committee. According to him the constitution of the Search Committee also should be in terms of the UGC Regulations are violated the constitution itself is bad and the recommendations. It was also pointed out that in the light of the law declared by the Supreme Court in the matter of appointment of the Vice Chancellors, it is incumbent upon the Chancellor to ensure that the Vice Chancellors in office are legally appointed and that their appointments are not hit by the law laid down by the Hon'ble Supreme Court, not only that in Sreejith's case but also in other judgments which stress on the necessity of compliance with the UGC Regulations in the process of appointment. According to him over and above the powers conferred on the Chancellor by the relevant Act and statutes, the Chancellor being the appointing authority of the Vice Chancellor, enjoys the power to remove him from office under the provisions of the General Clauses Act as well. With respect to the concept of 'void ab initio' it was contended that none of the Vice Chancellors who are presently served with the notices by the Chancellor can be treated as properly appointed Vice Chancellors, until it is verified and satisfied that their appointments are not hit by the judgments of the Hon'ble Supreme Court as the judgment rendered is law of the land.

11. Before going into the contentions regarding the authority of the Chancellor to remove the Vice Chancellor, it is necessary to consider whether the judgment rendered by the Hon'ble Supreme Court has got relevance in the case of the appointment of Dr M V Narayanan as the Vice Chancellor of Sree Sankaracharya University of Sanskrit.

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12. The Hon'ble High Court, while disposing of WP(C).No.34848 of 2022, in paragraph 3 of the judgment observed as follows:

“The Supreme Court in Dr Rajasree M.S. and others (supra) held in unmistakable terms that the UGC Regulations were applicable as regards the appointment of the Vice Chancellor in the Universities in the State and that it shall be as per the relevant provisions of the UGC Regulations amended from time-to-time. Further, the Apex Court held that any appointment as a Vice Chancellor contrary to provisions of the UGC Regulations is bad, and a writ of quo warranto can be issued. It was also held that the UGC Regulations shall become part of the Statute framed by the Parliament and will prevail. The submission on behalf of the State that unless the State specifically adopts the UGC Regulations, the UGC Regulations will not be applicable, and the State legislation shall prevail, was not accepted. In the facts of that case, it was found that the Search Committee was not duly constituted going by the Regulations, inter alia, found that the members of the Search Committee are given the privilege and honour of selecting and suggesting names for the appointment of Vice Chancellor and therefore, the Search Committee had to be duly constituted. As aforesaid, the solitary premise of which the Chancellor had issued the notice was the judgment in Dr Rajasree M.S. and others (supra). Though the declaration of law in the said judgment is binding on all, a factual adjudication is required to determine whether the Vice Chancellors' appointment in the instant case was in terms of the relevant UGC Regulations as applicable at the time of their appointments.”

13. The above findings make it clear that the 3rd referred judgment is binding on all and what is required to be adjudicated by the Chancellor is whether the appointment of the Vice Chancellors were made in terms of the UGC Regulations and in terms of the judgment of the Apex Court. Even otherwise the law laid down by the Hon'ble Supreme Court, is binding on all and the Chancellor is duty bound to ensure that the Vice Chancellors appointed by him are in terms of the UGC Regulations. The direction contained in the judgment referred 5th above has to be understood and implemented in the light of the above findings as well.

14. On going through the judgment of the Hon'ble Supreme Court in Sreejith's case it is to be seen that the Hon'ble Court relied on the judgment rendered in Gambirdhan K Gadhvi to hold that the State Act if not on a par with the UGC Regulations, must be amended to bring it on a par with the UGC Regulations and till then the UGC Regulations would prevail. It is also held in paragraph 8.4 that in view of the judgments in Gambhirdan Gadhvi and Anindya Sundar Das any appointment of the Vice Chancellor made on the recommendation of the Search Committee, which was constituted contrary to the provisions of the UGC Regulations shall be void ab initio. The same principal applies with equal force when a single name is recommended by the Search Committee violating the provision to recommend a panel to the Chancellor. In Sreejith's case the Hon'ble Supreme Court held that the appointment of Vice Chancellor made on the basis of single member panel given by the Search Committee is contrary to the UGC Regulations. Considering the above propositions the contention of Dr M V Narayanan regarding the non - applicability of the 3rd referred judgment in his case cannot be accepted.

15. Now the contention regarding the legality of the notice issued to the Vice Chancellor by the Chancellor in the light of the 3rd referred judgment and the authority of the Chancellor to do so needs to be looked into. The contentions raised by Dr M V Narayanan are two fold. One is that the Chancellor lacks the authority to review his own order since there is no specific power of review provided under the Act or the Statutes. The second one is that the removal of the Vice Chancellor from the post is contemplated only under Section 8 (7) of the Sree Sankaracharya University of Sanskrit Act, 1994.

16. The power of the Chancellor to appoint the Vice Chancellor necessarily includes the power to remove him from the office as well. The provisions under Section 16 of the General Clauses Act, says that the power to appointment includes the power to suspend or dismiss. The settled law is that the power to terminate is a necessary adjunct of the power of appointment. The Hon'ble High Court in the judgment rendered in Dr A V George v The Chancellor [WA 1432 of 2014] upheld the authority of the Chancellor to terminate the service of the Vice Chancellor. That was a case where after the appointment of the Vice Chancellor, certain irregularities were detected and the Chancellor decided to remove the person from his office. In the said case also the contention similar to the one

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raised in the present case was raised, and the Hon'ble Court upheld the authority of the Chancellor to remove the Vice Chancellor, whom he had appointed, from the office.

17. In this regard it is also to be noted that the contention raised by the UGC that the appointment of the Vice Chancellor, if made in violation of the UGC Regulations is void ab initio and the person cannot be treated as a Vice Chancellor at all. So the second contention that the Chancellor could remove the Vice Chancellor only under Section 8 (7) of the Sree Sankaracharya University of Sanskrit Act, 1994 is not available to Dr M V Narayanan till it is shown that his appointment to the post of Vice Chancellor is legally valid.

18. The judgment rendered in Kalabharati Advertising v Hemant Vimalnath Narichania: 2010 (3) KLT 986, cannot canvas the proposition of lack of inherent power of the appointing authority to terminate the service. The judgment deal with the power of review and the same does not apply in the present case. As rightly pointed out by the UGC, even without any declaration the appointment of the Vice Chancellors made in violation of the UGC Regulations is void ab initio and the Chancellor is duty bound to take appropriate actions to get the mistake corrected.

19. Considering the factual and legal matrix involved in the present case, it is be held that the notice issued by the Chancellor to Dr M V Narayanan is legally valid and the Chancellor has the authority to look into the legality of his appointment as Vice Chancellor in the light of the 3rd referred judgment.

20. Having found that the notice issued to Dr M V Narayanan, being valid it is necessary to consider whether the appointment of Dr M V Narayanan Vice Chancellor of Sree Sankaracharya University of Sanskrit was made in tune with the UGC Regulations.

21. Section 24 (3) of the Sree Sankaracharya University of Sanskrit Act, 1994 contemplates the Constitution of the Search Committee and the selection of the person to the post of the Vice Chancellor.

22. In terms of the above provision, the Chancellor constituted the Search Committee as per the 1st referred notification. The members in the Search Committee were Dr V K Ramachandran, Vice Chairman of the Planning Board, nominee of the

Government; Prof Shrinivasa Varakhedi, nominated by the Chairman of the UGC; and, Prof (Dr) Rajan Gurukkal, nominated by the Syndicate.

23. It is to be noted in this context and as rightly pointed out by the UGC representatives, the provision in the State Act stresses on the unanimous recommendation of a single person and on that count the provision runs contrary to the UGC Regulations, and the different judgments rendered by the Hon'ble Courts. In terms of the said provision which runs contrary to the UGC Regulations, the Search Committee submitted the single name of Dr M V Narayanan, for being appointed as the Vice Chancellor of Sree Sankaracharya University of Sanskrit. The recommendation was accepted and Dr M V Narayanan, was appointed as the Vice Chancellor of Sree Sankaracharya University of Sanskrit.

24. The submission of the single name by the Search Committee is in direct conflict with the UGC Regulations which prescribes a panel of 3-5 members. This aspect is answered in Sreejith's case and the law has been laid down by the Hon'ble Supreme Court that when only one name was recommended and the panel of names was not recommended, the Chancellor had no option to consider the names of the other candidates. Therefore it was held that such appointments can be said to be de hors and/or contrary to the provisions of the UGC Regulations. On this ground, the appointment of the Vice Chancellor in the case of APJ Abdul Kalam Technological University was set aside.

25. It is also worthwhile to refer to the judgment of the Hon'ble Supreme Court in Civil Appeal No 7700 of 2023 Dr Premachandran Keezhoth and others v The Chancellor, Kannur University, wherein the Hon'ble Supreme Court considered the power of the Chancellor in the matter of appointment of Vice Chancellors. While dealing with the said issue, the Hon'ble Court in paragraphs 82 and 63 of the judgment held.

“ 82. Under the scheme of the Act 1996 and the Statutes, the Chancellor plays a very important ruoe. He is not merely a titular head. In the selection of the Vice Chancellor, he is the sole judge and his opinion is final in all respects. In reappointing the Vice Chancellor, the main consideration to prevail upon the Chancellor is the interest of the University.

83. *The Chancellor was required to discharge his statutory duties in accordance with law and guided by the dictates of his own judgment and not at the behest of anybody else. Law does not recognize any such extra constitutional interference in the exercise of statutory discretion. Any such interference amounts to dictation from political superior and has been condemned by courts on more than on one occasions."*

26. In order to ensure the functioning of the Chancellor in the manner described by the Hon'ble Supreme Court, it is necessary that the recommendation of a single name by the Search Committee has to be deprecated and the methods provided under the UGC Regulations to be accepted. In the light of the above discussions it is only to be held that the appointment of Dr M V Narayanan, as the Vice Chancellor is void ab initio in the light of the UGC Regulations and the law laid down by the Hon'ble Supreme Court in Sreejith's case on the ground that his appointment was not made from a panel of eligible persons.

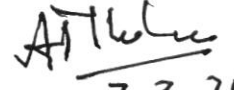
27. The UGC Regulations say that the members of the Selection Committee shall be **persons of eminence in the sphere of higher education**. The plain reading of the provision brings out the fact that the eminence should be in the field of higher education. No scholar, however high his deputation or recognition be, can be treated as a person of eminence in the higher education unless he is actively involved in the field of higher education. The number of publications to the credit of a person cannot entitle him to be treated as person of eminence in the field of higher education. In the case of Dr V K Ramachandran, the nominee of the government in the Search Committee, he was working as the Vice Chairman of the Kerala State Planning Board, which is also not a part of Higher Education. His occupation at the relevant time has nothing to do with the field of higher education. The eminence in the field of higher education as stated in the UGC Regulations must be understood at the relevant time and not during the past. A different interpretation would defeat the very purpose of the Regulations. On this count, the Search Committee which recommended the name of Dr M V Narayanan, to the post of Vice Chancellor, is to be considered as violating the UGC Regulations.

28. Dr M V Narayanan also raised a contention that the Vice Chancellor being an officer of the University and not a teacher, the post is not under the purview of the UGC

Regulations prescribing minimum standards for teaching posts. He contended that unlike in the case of other teaching posts, Regulation 7.3 (iv) does not prescribe a detailed methodology for the selection of Vice Chancellors. He also contended that the provisions in the University Grants Commission Act do not provide powers to fix the norms for the appointment of the Vice Chancellors. These arguments cannot be accepted in the light of the series of judgments rendered by the Hon'ble Court in the country accepting the UGC Regulations and upholding its authority in the matter of appointment of Vice Chancellors.

29. For the above mentioned reasons it is to be held that the appointment of Dr M V Narayanan as the Vice Chancellor of Sree Sankaracharya University of Sanskrit was not in terms of UGC Regulations and hence the same is to be treated as void ab initio in the light of the law laid down by the Hon'ble Supreme Court. It is found accordingly and he is to vacate the office of the Vice Chancellor of Sree Sankaracharya University of Sanskrit forthwith.

30. However in the light of the direction contained in the 5th referred judgment this decision is kept in abeyance for a period of ten days.


7.3.2024
The Chancellor,

Sree Sankaracharya University of Sanskrit