
(2014) 04 AP CK 0126

In the Andhra Pradesh High Court

Case No : W.P. Nos. 31280 and 11416 of 2013 and 10723 of 2014

B. Ravindra Reddy

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 09-04-2014

Acts Referred:

All India Council for Technical Education Act, 1987 — Section 10, 10(k), 11, 12, 2(g)
Civil Procedure Code, 1908 (CPC) — Order 6 Rule 6
Constitution of India, 1950 — Article 16

Citation : (2015) 3 ALD 664 : (2014) 4 ALT 188

Hon'ble Judges : D. Seshadri Naidu, J

Bench : Single Bench

Advocate : G. Vidya Sagar, Senior Counsel for K. Udaya Sri and M.V. Raja Ram, Advocate for the Appellant; K. Rathanga Pani Reddy, (SC for JNTU), Advocate for the Respondent

Judgement

Dama Seshadri Naidu, J.—All the three Writ Petitions are being disposed of through this Common Order, since the petitioners in all the writ petitions have assailed the same recruitment notifications issued by the same respondent-University. Thus, in all the three writ petitions, the same questions of law and facts have been raised by the similarly placed petitioners against the same set of respondents.

The facts in W.P. No. 31280 of 2013:

The petitioner, an Assistant Professor, working in the Department of Mathematics, College of Engineering, a constituent college of the respondent-University at Jagityal, is said to have passed Post Graduation in M.Sc. in 1998 and later acquired his Ph.D. in the year 2009. The petitioner avers that he is qualified in all aspects to hold the post of Professor.

2. On 25.03.2013, the respondent-University issued a notification inviting applications for the posts of Professors, Associate Professors and Assistant Professors at Hyderabad and also in the constituent colleges and its units at

other places. In the notifications, all of which were issued on the same day, five posts of Professors in Mathematics (Sciences and Humanities) were notified. When it comes to the requisite qualifications for the post of Professor, the University has, inter alia, prescribed that one should have a minimum of ten years teaching experience of which at least five years should be at the level of Associate Professor in University/College and/or experience in research at the University/National Level Institutions/Industries, excluding experience of guidance candidates for research at doctoral level.

3. The grievance of the petitioner is that although he has put up a minimum of ten years of teaching experience, in the light of the rider added to the qualification of ten years teaching experience that one should have put in five years at the level of Associate Professor within those ten years, he is being deprived of the opportunity to apply for that post. In fact, aggrieved by what is said to be the change in the qualifications, the petitioner is said to have made a representation to the respondent-authorities at Hyderabad on 01.08.2013, but to no avail. Accordingly, he approached this Court by filing the present writ petition.

Facts in W.P. No. 11416 of 2013:

4. This petitioner too, an Assistant Professor, working in the Department of Mathematics, College of Engineering, a constituent college of the respondent-University at Jagityal, is said to have passed Post Graduation in M.Sc. in the year 1998 and later acquired his Ph.D. in the year 2009. Though the rule of reservation applies to all the posts and the roster is required to be followed, instead of treating the University and all its constituent colleges as one unit for applying the rule of reservation and fixing the roster thereby, the University has grouped a few of its constituent colleges as one unit and another constituent college alone as another unit. Thereby, the roster has been disturbed with a cascading effect on the rule of reservation.

5. Having noticed the anomalies in the notifications referred to above, the petitioner is said to have made a representation on 04.04.2013 to the Registrar of the respondent University to review the fixation of roster points pertaining to the post of Associate Professor in Group-II of Mathematics as mentioned in the advertisement dated 25.03.2013, but to no avail.

6. It is further averred that the subjects of Social Sciences ought to have been reflected in the notification in the same alphabetical order, and all the constituent colleges of the University ought to have been treated as one unit for the purpose of fixing roster. With the infraction of the regulations in this regard, the roster has been disturbed and resultantly the petitioner has been deprived of an opportunity to apply to the post of Professor.

Facts in W.P. No. 10723 of 2014:

7. The first and second petitioners possess Post Graduation (M.Tech) in Energy Systems; whereas, the third petitioner holds his Doctorate (Ph.D.) in Chemistry.

The first and second petitioners are said to have acquired their Ph.D. in 2013. Thus, all three of them are said to be eligible for the post of Assistant Professor. The first and second petitioners belong to BC-"D" and the third petitioner belongs to OC community.

8. It is averred that the prescription of qualifications by the respondent University is in gross violation of the UGC Regulations, 2010, as well as G.O.Ms. No. 14, HE, dated 20.02.2010, which was issued by the State Government, adopting the regulations of the UGC. Though the notification was issued on 25.03.2013 by fixing the schedule for selection, the University went on postponing the selection process on one pretext or another. Despite the fixed schedule, the authorities have intermittently shifted the dates of interviews, and now it is beyond one year. Nevertheless, the University has not deemed it appropriate to renotify the posts, thereby providing a fresh opportunity to all other eligible candidates. That apart, these petitioners have also raised the same pleas as have been raised by the petitioners in the other two writ petitions.

Submissions:

9. In the above factual backdrop, Sri G. Vidya Sagar, learned Senior Counsel, representing Smt. K. Udaya Sri, learned counsel on record for the petitioners in W.P. Nos. 31280 of 2013 and 11416 of 2013, has taken this Court through the provisions of Jawaharlal Nehru Technological Universities Act, 2008 (Act 30 of 2008), those of the University Grants Commission, as well as the All India Council for Technical Education Act (AICTE Act). He has strenuously contended that the qualifications prescribed in the notifications, dated 25.03.2013, issued by the respondent University are contrary to those prescribed by the UGC Regulations, 2010 and also G.O.Ms. No. 14, HE, dated 20.02.2010. Elaborating on the said issue, the learned Senior Counsel has stated that, as per the Appendix-III of G.O.Ms. No. 14, the qualification for the post of Professor in Sciences and Humanities is that one should have a minimum of ten years of teaching experience in a University or a College. As such, there is no further prescription of five years service at the level of Associate Professor. In other words, by interpolation of these additional requirements of qualification, the petitioners have been deprived of their opportunity to apply to the post of Professor. On this count, the learned Senior Counsel has referred to the notifications issued earlier by JNTUA, Ananthapur, and also JNTUK, Kakinada, both of which prescribed a minimum of ten years of teaching experience without any further rider. He has further contended that Sathavahana University and Kakatiya University have also uniformly prescribed the same qualifications, as was done by the other Universities.

10. The learned Senior Counsel has also attacked the notifications on another count. He has submitted that when both the UGC Regulations, 2010 and G.O.Ms. No. 14 mandate a minimum of eight years of experience of teaching and/or research in an academic/research position equivalent to that of Assistant Professor in University/College or accredited research institution/industry, it has

been watered down by the respondent University to five years for the post of Associate Professor. According to the learned Senior Counsel, this dilution of the necessary qualification is patently illegal, and in fact, is to sub-serve an oblique purpose. The learned Senior Counsel has also drawn the attention of this Court to the tabular contents in the affidavit filed in support of the writ petition, where the qualifications and other parameters notified by the University and those that are said to have been fixed by the University Grants Commission were kept in juxtaposition. Thus, comparing the tabular forms, the learned Senior Counsel has vehemently denounced the method adopted by the University, and has contended that the University has acted on its own without any regard to the statutory regulations of the apex academic body, i.e., UGC, though they have an absolute binding effect on the respondent University.

11. It is further contended by the learned Senior Counsel that in the 12th Executive Meeting held on 25.03.2013, the University resolved to follow the UGC Regulations, 2010, as approved by the State Government in G.O.Ms. No. 14. Despite such resolution, the University, however, went ahead issuing notifications incorporating qualifications whimsically.

12. Taking aid of certain statutory references, the learned Senior Counsel has contended that as per Section 12 of the Act, the Executive Council is empowered to create the post and appoint teachers in the University. Sections 25 and 26 of the Act provide for how the statutes are to be made. The Academic Senate, which owes its existence to Section 10 of the Act, is empowered to make recommendations regarding qualification to be prescribed for the teaching post in the University and the constituent colleges. According to the learned Senior Counsel, after formation of the University, since no statute has been notified in accordance with the recommendations made by the Academic Senate, leaving alone the approval of the Executive Council, the qualifications specified in G.O.Ms. No. 14 alone shall be applicable for filling up various teaching posts in the respondent University.

13. Placing reliance on *Bharathidasan University and Another Vs. All India Council for Technical Education and Others*, , the learned Senior Counsel has strenuously contended that the guidelines, if any, issued by the AICTE, especially u/s 10(k) of AICTE Act, do not cover the Universities. Even the Government of Andhra Pradesh, contended the learned Senior Counsel, has not adopted the AICTE guidelines for maintaining the standards in the State Universities. Finally, the learned Senior Counsel has also submitted that the Central Government provides 80% of financial assistance to the State Governments to run the Universities, and as such, it is mandatory on the part of the Universities to adopt the UGC norms.

14. The learned Senior Counsel has drawn the attention of this Court to a portion of the notifications, which says that the candidate selected should work in any of the constituent colleges/units of the University including JNTUH College of Engineering, Hyderabad, Jagityal, Manthani and Singoor. Further expatiating his

submissions, the learned Senior Counsel has strenuously contended that in the light of the said condition, it is entirely unacceptable on the part of the respondent

15. University to issue different notifications bifurcating the University and its constituent elements in an irrational manner.

16. The learned Senior Counsel has also elaborated on the aspect of what is said to be the violation of rule of reservation and tinkering with the roster system. According to the learned Senior Counsel, for the purpose of rule of reservation, the University and its constituent elements should be treated as one entity. The University, however, has segregated one of its constituent elements i.e., College of Engineering at Sultanpur as a separate unit, providing to it a separate roster. The learned Senior Counsel has stated that this arrangement was made by the University authorities with an ulterior motive to benefit only a select few in the name of rule of reservation. He has also brought to the notice of the Court that despite representations made by the petitioners to the University, the authorities did not choose to answer their queries.

17. Illustratively, the learned Senior Counsel has stated that in the earlier notification dated 23.07.2009, in Group-II four posts were filled up i.e., Mathematics-3 and Pharmacy-1. As such, the roster point in the present notifications ought to have started at serial No. 5. Had it been so, the roster points at serial Nos. 9 and 11 would have been available for OC (General) in the subject of Mathematics.

18. By treating the constituent colleges at Hyderabad, Jagityal and Manthani as one unit and another constituent college at Sultanpur as separate unit, the University, contended the learned Senior Counsel, took recourse to a stratagem to accommodate its chosen few.

19. The learned Senior Counsel has also assailed the method adopted by the University in notifying the posts without adhering to, in his words, the usually accepted and hitherto practiced alphabetical order, Dilating on the said issue, the learned Senior Counsel has stated that Environmental Science which is a distinct discipline was reflected under the generic name "Social Science" in the notification. Thus, it was notified under alphabet "S" instead of "E". On the contrary, if the University had taken Environmental Science with its proper nomenclature, the roster would have been entirely different. Though the petitioner in W.P. No. 11416 of 2013 sought information on this account from the University authorities through his representation dated 09.04.2013 by taking recourse to the provisions of the Right to Information Act, the said petitioner, however, has not been provided with any information by the University.

20. In further elaboration of his submissions on the issue of not notifying the posts in the alphabetical order, the learned Senior Counsel has stated that the Government of Andhra Pradesh issued G.O.Ms. No. 420, Education Department, dated 18.11.1995 mandating that the rule of reservation has to be followed

group wise. Thus, in terms of G.O.Ms. No. 420, read with G.O.Ms. No. 995 dated 16.12.1992, the posts have been grouped under three heads: Group-I-Arts, Commerce, Business Management, Law, Social Sciences and Education, including all languages; Group-II-Sciences; and Group-III-Engineering and Technology. Each group is a single unit and is required to have the roster applied in terms of rules of A.P. State Subordinate Service Rules. In other words, Social Science will fall under Group-I, whereas Environmental Science will fall under Group-II, since it is a science subject. By the subterfuge of change in the nomenclature, the University, contended the learned Senior Counsel, has placed a science subject under Group-I, which essentially deals with Arts subjects, and thereby it has tampered with the roster points.

21. Summing up his submissions, the learned Senior Counsel states that in the above facts and circumstances, there shall be a declaration that the notifications dated 25.03.2013 are bad and that all the posts are required to be renotified.

22. Sri M.V. Raja Raam, the learned counsel appearing for the petitioners in W.P. No. 10723 of 2014 has substantially adopted the arguments of Sri G. Vidya Sagar, the learned Senior Counsel, in all their material aspects. In addition to those submissions, the learned counsel has contended that the initial notification was issued one year ago, i.e., on 25.03.2013, and later for various inexplicable reasons the authorities went on deferring the recruitment process. Now after more than a year, the authorities have decided to initiate the recruitment process by fixing the date for conducting interviews from 10.04.2014. On this count, the submission of the learned counsel is two fold. Citing the instances of other Universities reissuing notifications after certain delay, the learned counsel has contended that in view of inordinate delay in completing the recruitment process reckoning from the date of initial notification, the respondent-University ought to have issued a fresh notification or notifications calling for applications from all those eligible candidates. In other words, in the interregnum, from the date of notification to the present date of interviews, many more aspiring meritorious candidates could have acquired their qualifications. Most of them, however, have been denied an opportunity to apply for the posts only on the ground that the notifications were issued long back. In support of his submissions, the learned counsel has placed reliance on Association of Management of Private Colleges Vs. All India Council for Technical Education and Others, .

23. Secondly, the learned counsel has also contended that on an earlier occasion, one of the perspective candidates complained to the A.P. Lokayukta, which took up the matter of allegations against the Vice Chancellor of the respondent University vis-a-vis the present recruitment process, in Proceedings No. 980/2014/B.1/LOK/2364/2014, dated 18.03.2014. It is the contention of the learned counsel that, to avoid trouble of probe before the Lokayukta of A.P., the respondent University has reported to the Lokayukta that the proposed screening test and interviews scheduled for faculty recruitment from 10.03.2014 to 28.03.2014 have been postponed indefinitely owing to the election schedule

declared by the Election Commission of India. In fact, the Lokayukta of A.P. has, contended the learned counsel, closed the complaint on the strength of the statement made by the respondent University before it. Elaborating on the said issue, the learned counsel contends that having obviated the scrutiny by the Lokayukta, soon thereafter, the respondent-University has once again resumed its recruitment process, contrary to its own declaration or undertaking before an institution of immense importance.

24. The learned counsel has also further stated that on more than one occasion, the petitioners went on complaining to not only the authorities of the University but also various other statutory and constitutional authorities against of the delayed approach of the University and also the deprivation of an opportunities to the petitioners. According to the learned counsel, having remained insouciant in responding to the representations of the petitioners, now the University has been going ahead with an ulterior motive of accommodating its own chosen candidates.

25. In this regard, in the affidavit filed in support of the writ petition, the petitioners have also made certain personal allegations against a few officials of the University contending that the kith and kin of those officials are in the fray and that the authorities have been bending over backwards to accommodate their own candidates at the expense of the other meritorious candidates.

Submissions of the respondent-University:

26. Per contra, Sri K. Ratanga Pani Reddy, learned Standing Counsel for the respondent-University, has strenuously opposed the claims and contentions of the respective counsel for the petitioners in all the three writ petitions. To begin with, the learned counsel has raised serious objections with regard to the manner and method of pleadings and also the contents thereof in W.P. No. 10723 of 2014. The learned counsel has drawn the attention of this Court to para-15 of the affidavit filed in support of the said writ petition and has submitted that the allegations made therein are not only scandalous, but also irresponsible, apart from being uncalled for. The learned Standing Counsel has submitted that had the petitioners got any definite information in support of, what the learned Standing Counsel has called, those wild allegations, they ought to have filed the necessary proof before this Court by essentially citing the source of information as well. He has also contended that in the event of attributing any mala fides to the authorities of the University, it is incumbent on the part of the petitioners to add those officers eo nomine. Accordingly, he has urged this Court not to take cognizance of those, in his words, unfounded allegations.

27. The learned Standing Counsel has also raised a preliminary objection as to non-joinder of necessary parties. According to the learned Standing Counsel, insofar as the rule of reservation and fixing of the roster are concerned, the entire exercise has been undertaken and completed in consultation and concurrence with the Commissioner of Social Welfare, Director of Tribal Welfare

and Director of Backward Classes. As such, those departments ought to have been made parties to the proceedings, and ipso facto, in their absence the very writ petition should fail.

28. Addressing the issues on merits, the learned Standing Counsel has been in agreement with the learned counsel for the petitioners that the University treats all the constituent colleges as one unit only and that the usual practice is to pool all the vacancies in all those colleges, by arranging them in alphabetical groups and by allotting roster points in terms of the rules and regulations holding the field on the said issue. He has, however, elaborated on the circumstances under which the respondent-University was constrained to issue different notifications, especially treating its constituent college at Sultanpur as a separate unit.

29. The learned Standing Counsel has submitted that insofar as the newly sanctioned colleges of Manthani and Jagityal are concerned, the Government has sanctioned new teaching posts of Assistant Professors through G.O.Ms. Nos. 170 and 207, dated 05.08.2011 and 09.09.2011 respectively. In view of the felt need of the teaching faculty in those colleges, the University has initiated the recruitment process and accordingly pooled all the existing vacancies in the University along with those newly sanctioned posts in the said two constituent colleges. In this regard, it has written to the Departments of Social Welfare, Tribal Welfare and BC Welfare to have the roster fixed by the University verified and certified. The learned Standing Counsel, in tune with the pleadings made in the counter affidavits filed by the respondent University, has elaborated on the whole administrative process and the inevitable red tape in having sanctions put in place concerning the rule of reservation. The upshot of his submissions is that after following due process, the University has fixed the roster of the reserved posts on the basis of 100 point roster as has been prescribed in rule 22 of the A.P. State and Subordinate Service Rules, 1965.

30. The learned Standing Counsel has stated that once the entire process was completed and when the University was all set to notify the posts, the Government once again, through G.O.Ms. No. 293, Finance (SPMC-II) Department, dated 02.11.2012, sanctioned new posts for the newly constituted JNTU College of Engineering, Sultanpur, Medak District. Since the roster has already been fixed for the posts in the respondent-University, as well as the other constituent colleges, and since those newly established colleges did not even have skeletal teaching staff, the University has taken an informed decision to notify the posts of Sultanpur College of Engineering separately. In other words, if the posts available in the college of Engineering of Sultanpur were to be clubbed along with rest of the posts in other colleges, it would result in undoing the whole exercise concerning the fixing of roster which had already been done. Only to obviate the further delay in filling up the posts, the respondent University, contended the learned Standing Counsel, has obtained the sanction of the authorities concerned with regard to roster fixation for the college at Sultanpur separately.

31. Adumbrating the process that has been adopted in this regard, the learned Standing Counsel has stated that the University initially addressed a letter on 18.11.2013 to the Principal Secretary to the Government, Social Welfare Department for verification of roster points and it was followed up by another letter dated 19.01.2013 addressed to the Director, BC Welfare Department. Eventually, the Social Welfare Department through its letter dated 19.01.2013 gave a clearance for roster points to be fixed for JNTU College of Engineering, Sultanpur, and it was also later affirmed by the Director of BC Welfare through his letter dated 21.03.2013. Accordingly, the learned Standing Counsel has contended that under these inescapable circumstances, the University was compelled to adopt the method of bifurcating and separating one particular constituent college for the time being.

32. Addressing the allegation of not notifying in alphabetical order, the learned Standing Counsel has stated that already under Group-III, there is a particular discipline in the name of Environment Science and Technology. If Group-II was also to contain another post with a similar, if not the same, nomenclature, i.e., Environmental Science, it would lead to a lot of confusion in the minds of all the aspirants applying for the posts under Group-II, since there is already an Environmental Science and Technology discipline in Group-III. According to the learned Standing Counsel, since both the disciplines are entirely different requiring different sets of qualifications and experience, applying the same nomenclature to both posts would lead to confusion and chaos, thus affecting the chances of candidates in those distinctive disciplines. The learned Standing Counsel has further contended that the method adopted by the University has been uniform and intended to be continued in the same vein in future as well.

33. Specifically addressing the claims of the petitioners in W.P. No. 10723 of 2014, the learned Standing Counsel has stated that by the time of issuance of the notification, they were not qualified and a fortiori they could not insist on issuing a fresh notification taking advantage of mere delay in completing the recruitment process, by merely citing the instances of other Universities following a different mode or method. In other words, unless a rule or regulation mandates that in the light of delay of a particular period, there ought to be a re-notification of the posts, the petitioners cannot demand it as of right.

34. The learned Standing Counsel has also stated that though the notification was issued in March, 2013, the petitioners in W.P. No. 10723 of 2014 approached this Court very belatedly on 07.04.2014 by way of a lunch motion, which approach of the petitioners is unconscionable.

35. Specifically repelling the contention of the petitioners in the said writ petition that the University tided over the crises before the Lokayukta of A.P., stating that the recruitment process was indefinitely postponed owing to the impending general elections, the learned Standing Counsel has, however, stated that subsequently the very Election Commission issued a clarificatory note permitting the University to proceed with the recruitment process. Only on the strength of

the said clarification from the Election Commission, has the University decided to proceed further. As such, the petitioners' allegations imputing motives to the authorities of the University are unfounded and also uncalled for. The learned Standing Counsel has also made efforts to distinguish the citations relied on by the petitioners. Accordingly, learned Standing Counsel has urged this Court to dismiss all the three writ petitions.

36. Heard Sri G. Vidya Sagar, learned Senior Counsel for the petitioners in W.P. Nos. 31280 and 11416 of 2013, Sri M.V. Raja Ram, the learned counsel for the petitioner in W.P. No. 10723 of 2014 and the learned Standing Counsel for the respondent University, apart from perusing the record.

37. The controversy in all the three writ petitions compendiously revolves around three core issues, viz.:

(1) Whether the respondent University has tampered with the roster points by bifurcating the posts of all the constituent college of the University in different notification ?

(2) Whether the respondent University has subverted the process of selection by altering the nomenclature of the subjects to deviate from their otherwise usual alphabetical order ?

(3) Whether the respondent University has violated the qualification norms fixed by the UGC Regulations, 2010 and G.O.Ms. No. 14, dated 20.02.2010 ? And

(4) Whether the respondent-University is required to go for a fresh notification in the face of what is said to be inordinate delay in completing the recruitment process ?

In re: Preliminary Objections and Issue No. 4:

38. Incidentally, the fourth issue was raised by the petitioners in W.P. No. 10723 of 2014. Though the petitioners in the first two writ petitions have applied for the posts, the petitioners in this writ petition have not even applied. On this count, the learned Standing Counsel has asserted that they did not have the locus standi to approach this Court, having not applied for any post in the first place.

39. This objection on the part of the respondent-University may not detain us for long. On the issue of either participation or non-participation in the selection process, the arguments are always two fold, rather double edged. If a candidate participates in the process, the respondents will urge that since the candidate has participated in that process, he cannot later turn back and question it, inasmuch as he is bound by both estoppel and waiver concerning any objections or reservations he has. If a person has not participated in the selection process at all, the respondents are bound to urge, as has been done now, that since he has remained outside of the selection process, he lacks the necessary locus standi to call in question the selection process.

40. Once the State or an instrument of State has been enjoined to follow the rule

of law and if there is an infraction, it lies within the domain of any ordinary citizen to lay challenge against the said infraction. Indeed, this universal principle of locus has in course of time been diluted to some extent in view of the practical constraints in the approach. Through various judicial dicta, the Courts have held that the principle of locus standi does apply insofar as the service jurisprudence is concerned. In the present instance, the contention of the petitioners in W.P. No. 10723 of 2014 is that had the University adopted a different method of recruitment, viz., re-notifying the vacancies in the light of the alleged inordinate delay, they would have had chance to compete for the said posts. Accordingly, the contention of the learned Standing Counsel on the question of locus standi of these petitioners does not stand the scrutiny of law, and as such is rejected.

41. The other objection, the learned Standing Counsel has raised, is that insofar as the roster points are concerned, they have been fixed in consultation with the Departments of Social Welfare and BC Welfare and that those departments should have been made parties to the proceedings.

42. This objection on the part of the learned Standing Counsel too is required to be rejected at the threshold. The petitioners have not laid challenge against the approval said to have been accorded by those departments. On the contrary, the petitioners are assailing the method of splitting the constituent colleges and then" providing a separate roster to those colleges. As such, I am afraid even this plea of the learned Standing Counsel does not stand legal scrutiny.

43. Before advertng to the core issues that have been raised by the petitioners, it is appropriate firstly to deal with W.P. No. 10723 of 2014. Though the petitioners therein have taken all objections concerning the notifications in a comprehensive manner, a close scrutiny of the record reveals that their singular grievance is that in view of the delay that has been occasioned in completing the recruitment process, there ought to have been a re-notification as was done by other Universities. All the three petitioners acquired their eligibility evidently in 2013. On this count, the learned Standing Counsel has stated that the petitioners did not have requisite qualification by the date of notification or the last date for submitting the applications. This plea of the learned Standing Counsel has not been seriously controverted by the learned counsel for the petitioners.

44. It may have to be appreciated that the learned Standing Counsel has explained the reasons for the delays in having the recruitment process completed. Among various other administrative constraints, the learned counsel has stated that certain agitations and later the bifurcation of the State, not to speak of the election notification, have also contributed to the delays. It is also stated that though initially the University was disinclined to proceed with the recruitment process owing to the declaration of schedule for elections by the Election Commission, only based on the recent clarification issued by the Election Commission, did the University decide to proceed further and complete the process. Without doubt, as has been contended by the learned counsel for the petitioners, the petitioners did represent to various authorities including the

authorities of the University to re-notify the posts. A perusal of those representations dated 05.03.2014/06.03.2014, 04.04.2014, etc., simply reveals that the petitioners have requested the authorities to re-notify, thereby to provide them an opportunity to compete, but nothing beyond. In the absence of any statutory compulsion, re-notification on a mere delay, more so when the delays are beyond the control of the University, cannot be sustained. Though in the writ petition, the petitioners have raised numerous other grounds, given the fact that they lack the basic qualification by the time of the last date for the receipt of the applications, this Court is not inclined to go into them, as it would be an academic exercise without substance, at least vis-a-vis these petitioners.

45. Indeed, there is sufficient force in the contention of the learned Standing Counsel that the allegations made in para-15 of the affidavit filed in support of the writ petition are unfounded. The petitioners, indeed, have alleged that a few relatives of certain officials of the University are also prospective candidates in the recruitment and that thereby the said officials are trying to manipulate the selection process. In the first place, there is no statutory ban on the kith and kin of the university officials seeking employment in the University. Further the allegations do not meet the standard of pleadings as laid down under Order 6 of the Code of Civil Procedure, more particularly the rigorous requirement standards to be met in the case of making allegations of fraud, malpractice, etc. All that the petitioners averred was that they came to know through reliable sources that the officials were acting otherwise. As such, this Court is of the considered opinion that, for the adjudication of the issues raised in the writ petitions, those allegations, unsubstantiated and unsupported, more pertinently in the absence of the persons alleged being parties to the proceedings, cannot be sustained.

46. Accordingly, this Court is of the considered view that the Writ Petition No. 10723 of 2014 lacks the merit of consideration.

In re: Issue No. 1:

47. The principal contention of the petitioners in the other two writ petitions, i.e., W.P. Nos. 31280 and 11416 of 2013, is that instead of having a common notification for all the posts in the constituent colleges of the respondent-University, the University has segregated the college of Engineering at Sultanpur as a separate unit and applied roster to it independently. It is contended that this arrangement is not in accordance with law. Indeed, the University has cogently explained in its counter affidavit, as has been adumbrated by the learned Standing Counsel in his oral submissions, that insofar as the constituent college at Sultanpur is concerned, the Government sanctioned the posts at a later point of time i.e., 02.11.2012, by which date the process of fixing the roster with regard to the other colleges was completed. Since all those colleges were newly established and did not have even skeletal staff, the University was under a compulsion to expedite the process of recruitment. At that stage, if University had made efforts to unify all the posts once again and re-fix the roster, it would

have been required to begin from the scratch and go through the whole rigmarole of fixing the fresh roster, then moving the red tape of administrative sanctions.

48. Under the circumstances adverted to above, it may justifiably be held that more than mechanical adherence to the rule of reservation is the imparting of quality education to the students without further delay. Without detracting from the merit and wisdom of policy of reservation, even going by the constitutional mandate under Article 16 of the Constitution of India, especially, clauses (4), (4a) and (4b) thereof, the rule of reservation is an enabling constitutional convenience in the aid of the downtrodden and the marginalised sections of the society. Once the rule of reservation has been adhered to, mere variance in its application, more particularly under justifying, nay compelling, circumstances cannot be found fault with.

In re: Issue No. 2:

49. The other issue of substance raised by the petitioners is that Environmental Science was reflected under Social Sciences in Group-II instead of showing that as Environmental Science independently. The petitioners have laid heavy stress on this variation by contending that this has in fact disturbed the whole alphabetical order of the list of posts, inasmuch as the roster is directly relatable to the order in which the posts are notified.

50. On this count, it is the case of the University that already under Group-III, Environmental Science and Technology is one subject under which vacancies are sought to be filled up. If a similar nomenclature is applied to another post in Group-II i.e., Environmental Science, but with different qualification and experience, it would genuinely lead to some confusion and apprehension in the minds of the prospective applicants. Accordingly, the University has stated that as a matter of uniform policy, it has decided to reflect Environmental Science under the caption of Social Sciences showing the specific discipline parenthetically. Unless the petitioners could demonstrate before this Court that this arrangement has been done mala fide, subverting the process of selection, thereby intending to facilitate the selection of particular persons, it cannot be found fault with. Even otherwise once a policy is uniform and is not tainted with mala fides, it does not lie within the domain of the Courts to oversee the administration of any executive, more particularly of the Academic Institutions, thus donning the role of super-administrators. Indeed, the petitioners did allege, after a fashion, that the attitude of the University is mala fide in applying a particular nomenclature to the post thereby allegedly disturbing the alphabetical order of the posts, I am afraid they could not hammer home those allegations in earnest. There are neither sufficient pleadings nor sufficient proof in that regard. It is trite to state that it is easy to make allegations but very difficult to make them out.

In re: Issue No. 3:

51. The final salvo launched by the petitioners is that there is tampering with the Educational qualifications vis-a-vis notified posts. In fact, the learned Senior Counsel has repeatedly stressed the aspect that it is Regulations of UGC, as have been adopted by the Government of Andhra Pradesh through G.O.Ms. No. 14, that apply to the posts notified. By superimposing five years of experience at the level of Associate Professor the University has intended to edge out many other eligible candidates. On this count, the respondent University has consistently pleaded that AICTE is the Apex Institution insofar as fixing the educational standards is concerned. It has also contended that even the University Grants Commission is required to adopt the recommendations made by AICTE as part of its fixing the academic standards. On this count, it is profitable to examine G.O.Ms. No. 14, HE (UE-II), dated 20.02.2010. Paragraph 4.7 of the said G.O. is as follows:

Since UGC has prescribed the above qualifications for teaching positions in all higher education institutions for maintenance of minimum standards in consultation with the Statutory Councils governing the approval of courses respectively, any future modification in qualifications brought about by appropriate Statutory Councils for appointment of teachers in universities/ colleges offering such courses coming under the purview of appropriate Statutory Councils will automatically be considered as adopted by UGC as the prescribed qualifications for those teachers of such courses.

(emphasis added)

52. A perusal of the above provision makes it manifestly clear that any future modifications in qualifications brought about by appropriate Statutory Councils, say AICTE, for appointment of teachers in Universities/Colleges offering such courses coming under the purview of appropriate Statutory Councils, will automatically be considered as adopted by UGC as the prescribed qualification for those teachers of such courses. Thus, the cascading effect of the norms concerning the qualifications could be observed. It is AICTE that has the necessary expertise to fix the qualifications for the respective posts. Once such fixation is made, the UGC through its regulations adopts them. On such adoption, in view of the deeming clause in Rule 4.7, there is an automatic application of those standards even under G.O.Ms. No. 14. Once it is not in dispute that the standards the University has fixed for the respective posts are in terms of AICTE guidelines, the petitioners cannot insist that the University has to apply only those qualifications which were initially spelt out, albeit on the earlier recommendations of AICTE, either in the UGC Regulations or under G.O.Ms. No. 14, in a fossilized fashion.

53. Essentially, on the question of interference by the Courts in the matters of academic standards, the legal precedents are a legion.

54. The very judgment in Bharathidasan (1 supra) begins with a prefatory note: The only and important question of law that arises for consideration in this

appeal is as to whether the appellant-University created under a particular University Act should seek prior approval of the All India Council for the Technical Education ("AICTE") to start a department for imparting a course or programme in technical education or a technical institution as an adjunct to the University itself to conduct technical courses of its choice and selection. In fact, their Lordships of the Supreme Court have held that the AICTE created under the Act is not intended to be an Authority either superior to or supervise and control the Universities and thereby superimpose itself upon such Universities merely for the reason that it is imparting teaching in technical education or programmes in any of its Departments or Units. It is thus held:

[A] careful scanning through of the provisions of the AICTE Act and the provisions of the UGC Act in juxtaposition, will show that the role of AICTE vis-a-vis the Universities is only advisory recommendatory and a guiding factor and thereby sub-serve the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself, except submitting a Report to the UGC for appropriate action...

(emphasis added)

55. Having observed thus, the Supreme Court has in the end affirmed the role of AICTE as an institution laying down the standards of technical education in the following words:

16. [W]e also place on record the statement of the learned senior counsel for the appellant, which, in our view, even otherwise is the correct position of law, that the challenge of the appellant with reference to the Regulation in question and claim of the AICTE that the appellant university should seek and obtain prior approval of the AICTE to start a department or commence a new course or programme in technical education does not mean that they have no obligation or duty to conform to the standards and norms laid down by the AICTE for the purpose of ensuring co-ordinated and integrated development of technical education and maintenance of standards.

56. The learned counsel for the petitioner has placed reliance on Association of Management of Private Colleges Vs. All India Council for Technical Education and Others, , and has contended that in a case of regulatory conflict between the UGC and AICTE, it is those of the UGC that should prevail. In support thereof, he has placed reliance on the following paragraph:

53. A cumulative reading of the aforesaid paragraphs of Bharathidasan University and Another Vs. All India Council for Technical Education and Others, which are extracted above makes it very clear that this Court has exempted universities, its colleges, constituent institutions and units from seeking prior approval from AICTE. Also, from the reading of paras 19 and 20 of Parshavanath Charitable Trust and Others Vs. All India Council for Tech. Edu and Others, it is made clear after careful scanning of the provisions of the AICTE Act and the University Grants Commission Act, 1956 that the role of AICTE vis-a-vis universities is only

advisory, recommendatory and one of providing guidance and has no authority empowering it to issue or enforce any sanctions by itself.

Indeed, it is in total conformity the law laid down in Bharathidasan (1 supra).

57. In Assn. of Management of Private Colleges (2 supra) their Lordships have delineated the scope of Civil Appeal enlisting in the said case the issues, which are as follows:

(1) Whether the colleges affiliated to a university comes within the purview of exclusion of the definition of "Technical Institution" as defined u/s 2(h) of the AICTE Act, 1987?

(2) Whether the AICTE has got the control and supervision upon the affiliated colleges of the respective universities of the member colleges of the Appellant in C.A. No. 1145/2004 and the Appellants in connected appeals?

(3) Whether the MCA course be construed as technical education in terms of definition u/s 2(g) of the AICTE Act?

(4) Whether the Regulation 8(c) and 8(iv) by way of amendment in the year 2000 inserting the words "MBA and MCA" before Architecture and Hotel Management courses is applicable to the concerned colleges of the Appellants?

(5) Whether non placement of the amended Regulations before Houses of the Parliament as required u/s 24 of the AICTE Act is vitiated in law?

(6) Whether the law laid down by this Court in Bharathidasan University's case, Adhiyaman Education and Research Institute case and Jaya Gokul Educational Trust case is applicable to the fact situation of the concerned colleges of the Appellants?

58. Answering those issues, the Supreme Court has compendiously examined whether colleges affiliated to University are obliged to take separate permission or approval from AICTE to run classes in Technical Courses and courses leading to a degree of MCA. It is held that the role of inspection conferred upon AICTE is limited to ensuring proper maintenance of norms and standards in the technical education system. Since university has been excluded from definition of "technical institution" under the AICTE Act, even the affiliated colleges are excluded from the purview of the definition of technical institution under the said Act. Thus, placing reliance on Bharathidasan and other judgments of its own, the Hon"ble Supreme Court has held:

It was held after analysing the provision of Sections 10, 11 and 12 of the AICTE Act that the role of the inspection conferred upon AICTE vis-a-vis universities is limited to the purpose of ensuring proper maintenance of norms and standards in the technical education system so as to conform to the standards laid down by it with no further or direct control over such universities or scope for any direct action except bringing it to the notice of UGC. In that background, this Court in Bharathidasan University and Another Vs. All India Council for Technical

Education and Others, made it very clear by making the observation that it has examined the scope of the enactment as to whether the AICTE Act prevails over the UGC Act or the fact of competent entries fall in List I Entry 66 vis-a-vis List III Entry 25 of Schedule VII of the Constitution.

59. On the other hand, the learned Standing Counsel has placed reliance on V.K. Sood Vs. Secretary, Civil Aviation and others, , in which the Supreme Court has held:

7. We are afraid that we cannot enter into nor undertake responsibility in that behalf. It is for the expert body and this Court does not have the assistance of experts. Moreover it is for the rulemaking authority or for the Legislature to regulate the method of recruitment, prescribe qualifications etc. It is open to the President or the authorised person to undertake such exercise and that necessary tests should be conducted by UPSC before giving the certificates to them. This is not the province of this Court to trench into and prescribe qualifications in particular when the matters are of a technical nature. It is stated in the counter-affidavit that due to advancement of technology of the flight aviations the navigators are no longer required and therefore they are not coming in large number. Despite the repeated advertisements no suitable candidate is coming forward. We do not go into that aspect also and it is not necessary for the purpose of this case. Suffice to state that pursuant to another advertisement made in July 1992, the appellant is stated to have admittedly applied for and appeared before the UPSC for selection and that he is awaiting the result thereof. Under these circumstances, we do not find any substance in this appeal. The appeal is accordingly dismissed. No costs.

60. J. Ranga Swamy Vs. Government of Andhra Pradesh and Others, , reiterates the same principal. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. (vide Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others,). The Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. (vide Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others,). In the matter of appointments in the academic field, the court generally does not interfere. The Court, in fact, should show due regard to the opinion expressed by the experts constituting the Selection Committee and its recommendation on which the Chancellor had acted. (vide Km. Nelima Misra Vs. Dr. Harinder Kaur Paintal and others,). The Court should normally be very slow to pass orders in its jurisdiction regarding matters falling within the jurisdiction of educational authorities. Court should interfere with them only when it thinks it must do so in the interest of justice. (vide Bhushan Uttam Khare Vs. The Dean, B.J. Medical College and others,).

61. It is pertinent to observe that in *Medical Council of India Vs. Sarang and Others*, , the Hon"ble Supreme Court has once again stated that the Court should not normally interfere or interpret the rules and should instead leave the matter to the experts in the field.

62. In the same vein, the Supreme Court in *Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others*, , has held:

It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction.

63. Pertinently in *All India Council for Technical Education Vs. Surinder Kumar Dhawan and Others*, , the Supreme Court has opined that it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. After referring to all the above judgments and a few more, in *Dr. Basavaiah Vs. Dr. H.L. Ramesh and Others*, , has held:

45. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.

In the light of those definitive pronouncements, and in the face of the aforesaid discussion of the issues raised by the petitioners, this Court is of the considered view that none of the writ petitions contains merits of consideration, and accordingly, all the three writ petitions are dismissed as devoid of merit. There shall be no order as to the costs. As a sequel, miscellaneous petitions, if any pending in these writ petitions, shall stand closed.