
(1999) 07 MAD CK 0121

In the Madras High Court

Case No : Writ Petition No. 8979 of 1999 and W.M.P. No. 12714 of 1999

Dr. A. Sivamurthy

APPELLANT

Vs

The Syndicate Sub Committee, Performing for the Functions
of the Vice Chancellor of Madras University

RESPONDENT

Date of Decision : 30-07-1999

Acts Referred:

Madras University Act, 1923 — Section 12, 12(4), 13, 13(6), 15

Citation : (1999) 07 MAD CK 0121

Hon'ble Judges : E. Padmanabhan, J

Bench : Single Bench

Advocate : R. Krishnamoorthy for R. Muthukumaraswamy, for the Appellant;
T.R. Rajagopalan, A.A.G. for B. Ramamoorthy, for the Respondent

Judgement

E. Padmanabhan, J.—The Petitioner, Registrar in-Charge of the University of Madras has invoked the writ jurisdiction of this Court under Article 226 praying for the issue of a writ of certiorarified mandamus calling for the proceeding of the first Respondent in proceeding No. D (I)(A)TE/VC/99/782 dated 16.5.1999, quash the same and consequently direct the Respondent to restore the Petitioner to the post of Registrar in-charge or Controller of Examinations or Professor of Criminology with all attendant benefits. Initially, the Syndicate Sub-Committee performing the functions of the Vice-Chancellor/Chancellor Madras University alone was impleaded as the sole Respondent. Subsequently, the University of Madras represented by the Registrar had also been impleaded.

2, Heard Mr. R. Krishnamoorthy, learned Senior Counsel appearing for Mr. R. Muthu-umaraswamy and Mr. T.R. Rajagopalan, Additional Advocate General appearing for Mr. B. Ramamoorthy for both the Respondent. With the consent of counsel for either side, the writ petition itself was taken up for final disposal, A counter affidavit has been filed by the Convenor of Syndicate Sub-Committee and the said counter affidavit has been adopted by the second Respondent also. The writ Petitioner has filed a reply affidavit and subsequently, the Respondents

have also filed their rejoinder.

3, According to the Petitioner, his substantial appointment is that of Professor of Criminology and he was appointed as Controller of Examinations for a term of three years, a tenure post with his lien in the post of Professor of Criminology. The Post of Registrar fell vacant and the Petitioner was appointed as the Registrar in-charge. The other details or service particulars of the Petitioner are not relevant to the present writ petition

4. The post of Registrar in the University of Madras fell vacant and as per the directions of the Syndicate, the Petitioner had been acting as Registrar in-charge since 5.10.1998. Also on the earlier occasion, when the post of Registrar fell vacant, the Petitioner functioned as Registrar in-charge.

5. When the post of Registrar fell vacant the Syndicate resolved to appoint a member of the Indian Administrative Service to be the Registrar on deputation, such move was challenged by filing a writ petition and certain other writ petitions have also been filed praying for the issue of quo warranto against the Head of Department of Contemporary Tamil Literature and certain interim orders were passed in those writ petitions.

6. On 11.5.1999, directions were issued by this Court directing the Registrar in-charge to declare the Syndicate elections in respect of all the Members excepting the third Respondent in the said writ petition. On production of a copy of the directions issued by this Court, the Petitioner as the Registrar in-charge complied with the order by declaring the results of the election to the Syndicate of the University in respect of five members excluding the third Respondent in the writ petition. The Petitioner had declared the election as per the orders of this Court as Registrar-in-charge.

7. The Syndicate Sub-committee on 15.5.1999 enquired the Petitioner as to how he had declared the results without getting their approval and to the said query, the Petitioner placed the copy of the orders passed by this Court in W.P. Noll1.44 of 1998 and pointed out the directions issued by this Court. The Petitioner also drew the attention of the first Respondent that even as per the statutory provisions, he is the competent authority to declare the election results and that he need not secure the approval of the Vice-Chancellor or the Syndicate or any other authority..

8. The Syndicate Sub-committee expressed displeasure and were upset and required the Petitioner to withdraw the communication declaring the results, which the Petitioner had politely declined while insisting for written instructions. Being infuriated, the Syndicate Sub-Committee expressed that action will be taken to remove the Petitioner.-

9. On 16.5.1999, the Petitioner was served with an order placing him under suspension in contemplation of enquiry into the charges to be framed against the Petitioner. It is useful to extract the very impugned proceedings..

UNIVERSITY OF MADRAS

No. DI(A)/TE/VC/99/782 dt. 16.5.1999

From Syndicate Sub-Committee in the place of Vice Chancellor To Dr. A. Sivamurthy Registrar(i/c) University of Madras Marina Campus Chennai-5.

Sir, The Syndicate Sub-Committee informs you that it is decided to place you under suspension in contemplation of an inquiry into the charges that are being framed against you. The decision has been taken u/s 12(4) (a) of the Madras University Act, 1923 and has the sanction of the chancellor.

The Syndicate Sub-Committee informs you that you are placed under suspension with effect from 16.5.1999.

The Syndicate Sub-Committee informs you that during the period that this order shall remain in force, your headquarters shall be Chennai City and you shall not leave the said headquarters without obtaining the prior permission of the University.

The Syndicate Sub-Committee informs you that during the period of suspension, you will be paid subsistence allowance and the rates of the same will be communicated to you, in due course.

Yours faithfully, sd/ Convener,

10. The above order is being challenged in the present writ petition. The above order, according to the Petitioner, is passed in purported exercise of powers u/s 12(4)(a) of the Madras University Act and it is being challenged as illegal, mala fide and an arbitrary exercise of power without any warrant or justification.

11. The Petitioner also contended that the impugned proceeding has been passed without jurisdiction as the Syndicate Sub-Committee is not competent to place the Registrar in-charge under suspension. It has been further contended that for any reason, if the Petitioner is to be kept out of the office of the Registrar, he should have been either reverted back to the post of Controller of Examinations or to the post of Professor of Criminology and there is neither a warrant nor justification to suspend the Petitioner.

12. The Convener of the Syndicate Sub-Committee had filed a counter affidavit on behalf of the Respondents. In the said counter affidavit, it has been stated that the Petitioner was not functioning in accordance with law. In the counter affidavit the Respondent had referred to the filing of writ petition challenging the posting of a member of the Indian Administrative Service as well as the filing of the writ of Quo Warranto filed against the Head of the Department of Contemporary Tamil Literature.

13. In the counter affidavit, it has been further stated that the Petitioner, as the Registrar in-charge, had failed to place before this Court the four representations received by him from Tvl. 1 . Maruthamuthu, 2. Rahamathullah,

3. Dr. N. Sivagnanam and 4. Prof. Ponnusamy questioning the validity of election held on 7.11.1998. On the representation made on behalf of the third Respondent in the said writ petition, this Court directed the Registrar to announce the result of the other contestants who are not parties to the writ petition No. I 1144 of 1998. It is further stated that neither the Registrar nor Mr. B. Ramamoorthy, counsel for the University of Madras had notice of hearing of the above W.P. No. I 1144/98. " The Petitioner as Registrar was aware of the fact that the counsel of the University was not in station on that date and no notice of hearing was given to him or to the Sub-Committee and in the normal circumstances, the Registrar should have brought these factors to the notice of the Syndicate Sub-Committee before initiating any action which the Petitioner had miserably failed. The Petitioner neither brought those factors to the notice of the Syndicate Sub-Committee nor of his own took any action to address the High Court on the issue before announcing the results of five of the contestants concerned, who have not moved the High Court for any order. The Petitioner should have followed the procedure u/s 41 of the Madras University Act before announcing the results and the mandatory provisions of Section 41 had been violated.

14. Section 41 provides that if any question arises whether any person has been duly elected or nominated as or is entitled to be a member of any authority (or other body) of the University, the question shall be referred to the Chancellor whose decision thereon shall be final. The Petitioner had failed to follow the said procedure as the Registrar of the University. The Petitioner had also failed to set out the above plea in the counter affidavit. The Petitioner had miserably failed to place the full facts and failed to bring to the notice of this Court the pendency of the dispute relating to the election and ought to have moved for clarification from this Court. Without taking appropriate steps and orders, the Petitioner had acted unilaterally. In the circumstances, on being apprised of the above facts, the Syndicate Sub-Committee exercising the powers of the Vice-Chancellor suspended the Petitioner after securing approval of the Chancellor.

15. It is admitted by the Respondent that the Petitioner had complied with the order and as the Sub-Committee performing the functions of the Vice-Chancellor" Chancellor, it had not taken any steps contrary to the orders of this Court. The averments set out in paras 9 to 12 are denied as incorrect. The members of the Sub-Committee were not upset by the action taken by the writ Petitioner and called upon the Petitioner to withdraw the communication declaring the results. The members of the Sub-Committee did not get infuriated nor expressed that action will be taken to remove the Petitioner.

16. After perusing the file relating to W.P. No. 11144/98, as well as the orders passed thereon by this Court and after perusing the files relating to the election in question, the Sub-Committee came to the conclusion that the action of the Registrar in-charge without reference to the Vice-Chancellor is illegal, unjustified and, therefore, brought the entire facts to the notice of the Chancellor before

placing the Petitioner under suspension.

17. The Respondent contended that there is no illegality nor there is mala fide in the action taken by the Sub-Committee. The Respondent further contends that the Syndicate Sub-Committee had acted u/s 12(4)(a) of the University Act, 1923 Which enables the Vice-Chancellor to take immediate action in emergent situation when it is warranted with the approval of the Chancellor or Pro-chancellor and the impugned proceeding is in accordance with the statutory provisions. The Petitioner has got an alternate remedy of an appeal and without exhausting the appeal remedy, the Petitioner has rushed to this Court and the writ petition is, therefore, liable to be dismissed as not maintainable.

18. It is also pointed out by the Respondent that W.P. No. 8295 of 1984 filed by Dr. Maa. Selvarasan had been dismissed on the ground of alternate remedy, namely failure to prefer an appeal u/s 41 of the Act and the writ petition has been dismissed on that score. So also, W.P.N. 19418 of 1998.

19. The Respondent had denied the allegations of mala fides attributed to the Sub-Committee and also stated that the order of suspension has been issued after securing the approval of the Chancellor besides contending that there is no illegality. It is contended that the Sub-Committee which is performing the functions of the Vice-Chancellor has got the jurisdiction to pass the impugned order of suspension as the Petitioner had committed an illegality in haste without following any of the procedures governing the election.

20. The Petitioner had failed to open the sealed cover containing the ballots in the presence of the Vice-Chancellor or other members who were present when the cover was sealed on 7,11.1998. The Petitioner should have informed the other members and the Syndicate Sub-Committee and after observing the procedure, should have opened the cover containing the results of the election. After the covers are opened and the results are announced, it has to be signed by the Vice-chancellor and the Registrar and in the present case, only the Registrar had signed and the Sub-Committee which is performing the functions of the Vice-Chancellor/ Chancellor was kept under dark. The Petitioner, who is aware of the procedure, had deliberately acted in undue haste and utter disregard of the statutory rules.

21. The Respondent has elaborated the representations given by the four Professors questioning the election and recording of votes. According to the Respondent, 117 votes had been recorded when there were only 107 participants at the Meeting hall and only those who are present in the Meeting Hall alone could exercise their franchise. These representations and illegality pointed out by the four Professors had been kept for by the writ Petitioner without sending them to the Chancellor for decision. This conduct of the Petitioner is an alarming situation which could totally invalidate the election procedure.

22. The Petitioner also failed to maintain the secrecy in the election process. This Court directed the Petitioner to declare the results of the election of other

contestants for the Syndicate excepting the third Respondent. There were 13 contestants in the said election and the Petitioner" should have announced the result of 12 persons out of the 13 contestants. But the Petitioner adopted the dubious method of declaring the result of 5 of the contestants by announcing that they have been elected in the election and the result of other 7 candidates, were not announced. By resorting to such a procedure, the Petitioner had declared the result of Dr. Maa. Selyarasan, the third Respondent in the said writ petition violating the orders of this Court. Under the circumstances, announcing successful candidates without reference to the dispute relating to the election to the Chancellor u/s 41 of the Act and announcing the results contrary to the directions of this Court, the Petitioner had committed grave irregularity which affected the functioning of the University itself. As there is a heavy shortfall in the reliability of the officer, namely the Petitioner, action was contemplated on various charges against the Petitioner and the Syndicate Sub-Committee had taken valid decision u/s 12(4)(a) of the Act.

23. It is further contended by the Respondent that the situation is so emergent and it warranted immediate action against the Petitioner and as the situation would not brook delay, immediate action was taken by the first Respondent. The first Respondent further, asserted that there are enough materials available on records for the contemplated or proposed action against the Petitioner. As those materials are not necessary, the same is not being set out in the counter affidavit.

24. The Syndicate Sub-Committee is acting for the Vice-Chancellor and as such the Vice-Chancellor has the necessary powers u/s 12(4)(a) of the Act and the same cannot be doubted. The power exercised against the Petitioner would not per se show mala fide nor there is any reason for the Committee acting for the Vice-Chancellor to have anything personal against the Petitioner. The Committee had been constrained to take such emergent action in terms of power conferred upon u/s 12(4)(a) of the Act. The impugned order, according to the Respondent is therefore unassailable and has to be sustained. The Respondent and has also denied the allegations regarding mala fides as well as colourable exercise of powers by the Sub-Committee.

25. It is fairly stated by either side that the post of Controller of Examinations is a tenure post. So also the post of Registrar. In terms of Section 8 of the Madras University Act, 1923, hereinafter referred to as the Act", the Chancellor, Pro-Chancellor, Vice-Chancellor, The Registrar and such other persons as may be declared by the statute are the Officers of the University. Section 12(A) of the Act provides that the Registrar shall be a whole time paid officer of the University appointed by the Syndicate for such a period and on such terms as may be prescribed by the statutes: Section 12 provides the powers and duties of the Vice-Chancellor.

26. In the present case, reliance is placed on Sub-section (4) of Section 12 of the University Act and for immediate reference, the said provision is extracted:

(4) (a) In any emergency which in the opinion of the Vice-Chancellor requires that immediate action should be taken, he may take such action with the sanction of the Chancellor or the Pro-Chancellor and shall as soon as may be thereafter report his action to the officer or authority who or which would have ordinarily dealt with the matter.

(b) When action taken by the Vice-Chancellor Chancellor under this Sub-section affects any person in the service of the University, such person shall be entitled to prefer an appeal to the Syndicate within thirty days from the date on which he has notice of such action.

27. According to the Respondent-University in an emergency situation, the Vice-Chancellor may take all such action with the sanction of the Chancellor or Pro-Chancellor and as soon as may be thereafter report his action to the Officer or authority who or which would have ordinarily dealt with the matter. The emergency powers of the Vice-Chancellor as provided in Section 12 (4) (a) is well accepted by either side. After exercise of such power in any emergency, the Vice-Chancellor Chancellor as soon as may be thereafter report his action to the Officer or authority who or which would have ordinarily dealt with the matter. Clause (b) of Section 12(4) of the Act also provides that in respect of any action taken under Sub-section (4) of Section 12 any person in the service of the University shall be entitled to prefer an appeal to the Syndicate within 30 days from the date on which he has notice of such action.

28. Section 13 provides for The Senate, the Syndicate. The Academic Council, The Faculties, The Finance Committee, The Boards of Studies are the Authorities of the University. Chapter III provides matters relating to The Senate, its powers and duties. Section 15 of the Act provides that the Senate shall be the Supreme governing body of the University and shall have power to review the action of the Syndicate and the Academic Council save where the Syndicate and the Academic Council have acted in accordance with powers conferred on them under the Act. -

29. Section 19 of Chapter IV provides the powers of the Senate of powers of the Syndicate are enumerated in Clauses (a) to (y). Section 19 (h) provides that the Syndicate has got the powers to suspend and dismiss the University Professors, Readers, and Lecturers and the Teachers and servants of the University as well as the power to appoint the said Professors, Lecturers, Readers and define their duties and service conditions among other powers.

30. Chapter V. provides for the constitution and the powers of Academic Council while Chapter VI provides for the framing of statutes. Chapter VI of the statutes framed under the Act provides for the Vice-Chancellor/Chancellor. The Vice Chancellor has to be appointed by the Chancellor as per the procedure prescribed in Clause (1) of Chapter VI. The Vice-Chancellor/Chancellor so appointed shall hold the office for a period of three years and he is eligible for reappointment for not more than two successive terms. Sub-clause (4) of Section 1 of Chapter VI of the Statute provides that "when temporary vacancy occurs in the office of the

Vice-Chancellor or if the Vice-Chancellor is by reason of absence or for any other reason, unable to exercise the powers and perform the duties of the office, the Syndicate, shall, as soon as possible, make the requisite arrangements for exercising the powers and performing the duties of the Vice-Chancellors." .

31. An incidental contention was raised that no authority has been conferred to frame the statute. However, u/s 29 (e), it has been provided that the statutes may provide for the powers, duties and conditions of service of the officers of the University other than the Chancellor and the Pro-Chancellor. As such, it is clear that in terms of Section 29 statutes could be framed with respect to the powers, duties and conditions of services of officers of the University and the expression Officers of the University includes the Registrar as seen from Section 8(3) of the Act. Hence, the incidental contention raised do not deserve any further consideration. Hence, this Court holds that Chapter VI of the statutes framed and introduced by the Madras University Amendment Act, 1966 is a valid statutory provision and the contention raised in this respect by the counsel for the Petitioner cannot be countenanced at all.

32. It was pointed out that a Syndicate Sub-Committee constituted by the Syndicate could exercise all the powers of a Vice-Chancellor whenever there is temporary vacancy in the office of the Vice-Chancellor or if the Vice-Chancellor by reason of his absence or for any other reason unable to exercise the powers and perform duties of the Office. The Vice-Chancellor could exercise all the powers conferred by the Act and the statutes on the Vice-Chancellor. In this respect in W.P. No. 8295 of 1984, (Dr. Maa. Selvarasan v. The Vice Chancellor and Anr.), Natarajan, J, had occasion to consider the scope of Section 12 (4) (a) of the Madras University Act and held thus:

3. In so far as Section 12 (4) (a) of the Act is concerned, it certainly gives power to the Vice-Chancellor to pass an order of suspension. When the exigency of a situation requires immediate action being taken, the Vice-Chancellor is empowered to act u/s 12 (4)(a) and pass suitable orders including an order of suspension as has been passed in this case. In order to see that an arbitrary order is not passed by the Vice-Chancellor Chancellor, the Sub-section provides for prior concurrence being obtained from the Chancellor or Pro-Chancellor before the order is issued. That procedural safeguard has been satisfied in this case because the Vice-Chancellor has obtained the sanction of the pro-Chancellor. Once it is found that the order had been validly passed that u/s 12(4)(a), it has to be pointed out that the Petitioner has as right of appeal u/s 12(4)(b) of the Act. That Sub-section already states that when action has been taken by the Vice-Chancellor u/s 12 (4)(a), the person in the service of the University who is affected by the order is entitled to prefer an appeal to the Syndicate within thirty days from the date on which he has notice of such action.

4. The learned Counsel for the Petitioner brings to my notice that the Syndicate has ratified the order of suspension passed by the Vice-Chancellor at its meeting held on 30.7.1984 and, therefore the appeal contemplated u/s 12(4)(b) "Of the

Act will only be an illusory remedy for the Petitioner. This contention cannot be accepted because the statute provides for a right of appeal to the aggrieved party and when so approached by an aggrieved party, the Syndicate has got to examine the matter in exercise of its appellate powers in accordance with the established procedure and principles of natural justice. As such, before exhausting the remedy available to him by way of appeal, the Petitioner cannot bypass Section 12(4)(b) and seek the intervention of this Court straightaway.

33. This judgment is being relied upon by the learned Additional Advocate General in support of his contention that The Vice-Chancellor is the authority to pass the order of suspension with respect to the Petitioner when the exigency of the situation warrants or requires immediate action being taken and the powers of the Vice-Chancellor is well accepted.

34. It was contended by the learned Counsel for the Petitioner that no specific powers of suspension has been conferred on the Vice-Chancellor and, therefore, the Syndicate Sub-Committee has no authority or jurisdiction to pass the impugned order of suspension. While advancing this contention, Mr. R. Krishnamoorthy, learned Senior Counsel for the Petitioner took the court through the statutory provisions of the Act as well as the statutes. Mr. T.R. Rajagopalan, learned Additional Advocate General contended that the Syndicate is the authority to place the Registrar under suspension as the Syndicate is the authority which had appointed the Registrar by a resolution passed by it. While admitting that there is no specific provision conferring power on any of the officer or authority of the University to suspend the Registrar or other officer or the University, the Learned Additional Advocate General also referred to the statutory provision as well as accepted the basic legal principle that the appointing authority, namely the Syndicate in the case of the Registrar has the power to suspend the Registrar.

35. In this respect, it has to be pointed out that Section 19 of the University Act provides that the Syndicate shall have the powers enumerated therein. Mr. T.R. Raja-gopalan, learned Additional Advocate General referred to Sub-section (h) of Section 19 and contended that the Syndicate shall have the power to suspend the Registrar. In my considered view, this contention overlooks the specific power conferred on the Syndicate. Sub-section (h) of Section 19 reads thus:

(h) to suspend and dismiss the University Professors, Readers and Lecturers, and the Teachers and Servants of the University;

36. As already pointed out, the Registrar is an Officer of the University and he is neither an University Professor nor Reader, nor Lecturer, nor a Teacher nor he could be termed as a servant of the University in the light of Section 8, which defines the Registrar as one of the Officers of the University. Therefore, it is not possible to sustain the contention put forward by Mr. T.R. Rajagopalan, learned Additional Advocate General that Section 19 (h) confers powers on the Syndicate to suspend the Registrar, an officer of the University.

37. Chapter VII of the statutes provides that the Registrar shall be appointed by the Syndicate subject to confirmation of the Senate. Clause (3) of Chapter VII of the statutes provides that it shall be in the power of the Syndicate to dispense with the services of the Registrar at any time on payment to him of six months salary and it may at any time discharge him from its service without notice or compensation in the event of misconduct on his part or of a breach by him of any of the conditions on which he was engaged. The Registrar has to give six months notice of his intention to resign. The Registrar is a whole time paid officer of the University. This legal position flows from the statutory provisions referred herein.

38. A conjoint reading of Sections 8, 12 (4) (a) of the Act and Chapter VII of the Statutes would show that the Syndicate is the appointing authority and the said authority could dispense with the services of the Registrar at any time subject to certain conditions therein. Therefore, it follows that the Syndicate which is the appointing authority of the Registrar has got the powers to suspend the Registrar as well.

39. "It is well-settled in Service Jurisprudence that even in the absence of any specific provision, rule or regulation, the appointing authority is competent to suspend the appointee. A master has got right to place his servant under suspension which is also the settled position of law in *Balvantray Ratilal Patel Vs. The State of Maharashtra*, . The Apex Court after analysing the entire case law on the subject held that an employer can suspend an employee on his pending inquiry into his misconduct and the only question that arise in such suspension will relate to the payment of his wages during the period of suspension". The Apex Court held thus:

(4) The general principle], therefore, is that an employer can suspend an Employee pending an inquiry into his misconduct and the only question that can arise in such suspension will relate to payment during such suspension. If there is no express term relating to payment during such suspension or if there is no statutory provision in any enactment or rule, the employee is entitled to his full remuneration for the period of his interim suspension. On the other hand, if there is a term in this respect in the contract of employment or if there is a provision in the statute or the rules framed thereunder providing for the scale of payment during suspension, the payment will be made in accordance therewith. The principle applies with equal force in a case where the Government is an employer and a public servant is an employee with this qualification that in view of the peculiar structural hierarchy of Government administration, the employer in the case of employment by Government must be held to be the authority which has the power to appoint the public servant concerned. It follows, therefore, that the authority entitled to appoint the public servant is entitled to suspend him pending a departmental enquiry into his conduct or pending a criminal proceeding, which may eventually result in a departmental enquiry against him. But what amount should be paid to the public servant during such suspension will depend upon the provisions of the statute or statutory rule in that

connection. If there is such a provision, the payment during suspension will be in accordance therewith. But if there is no such provision, the public servant will be entitled to his full emoluments during the period of suspension. On general principles, therefore, the government, like any other employer, would have a right to suspend a public servant in one of two ways. It may suspend any public servant pending departmental enquiry or pending criminal proceedings; this may be called interim suspension. The Government may also proceed to hold a departmental enquiry and after his being found guilty, order suspension as a punishment if the rules so permit. This will be suspension as a penalty. As we have already pointed out, the question as to what amount should be paid to the public servant during the period of interim suspension or suspension as a punishment will depend upon the provisions of the statute or statutory rules made in that connection.

40. Following the said legal pronouncement of the Apex Court and on a conjoint reading of the provisions of the University Act and the statutes already referred to, this Court holds that the Registrar, an Officer of the University could be placed under suspension by the Syndicate which authority had appointed the Registrar. This Court further holds that though the rules relating to servants of the University including the rule relating to placing the servants of the University under suspension, had not been made applicable and no arguments have been advanced in this respect by the learned Counsel for the Respondents. As such in the absence of any statutory provision or ordinance with respect to the fixing the payment of subsistence allowance, it follows that the Registrar of the University will have to be paid subsistence allowance equal to his salary as held by their Lordships of the Apex Court in *V.P. Gidroniya Vs. The State of Madhya Pradesh and Another*, .

41. In this respect, the distinction between suspending a contract of service and suspending an employee from performing his duties have to be noticed. In the present case, as already stated, the Petitioner is the Registrar in-charge and prior to that, he was the Controller of Examinations. The Status of the as Controller of Examinations is also the same as that of a Registrar, namely he is an Officer of the University and he is also holding a tenure post. The statutory provision of a Controller of Examinations also is in *pari materia* excepting there is a difference to a limited extent. In other words, the Petitioner either as a Controller of Examinations or as the Registrar in-charge is holding a tenure post and suspension from both the posts would be an implied term of the contract of service and in effect, the Respondent-University merely issues a direction to the Petitioner not to do the service required by him during the particular period.

42. It is also to be pointed out, no provision has been relied upon or cited by the learned Additional Advocate General to show that conferring power on any of the authorities to suspend the Petitioner much less, a statutory provision either in his capacity as a Controller of Examinations or in his capacity as the Registrar in-charge. In the light of the above factual matrix, it is useful to refer to a larger

Bench decision of the Apex Court in *V.P. Gidroniya Vs. The State of Madhya Pradesh and Another*, , where the Apex Court had considered the legal position as regards the Master's right to place his servant under suspension. The Apex Court had also occasion to consider in that case where there is no express term in contract of employment or in the rules, to suspend an employee, such employee would be entitled to, payment for the period of suspension, if there is no statutory provision or rule under which it could be withheld." In that respect, the Apex Court held thus:

7. The legal position as regards a master's right to place his servants under suspension is now will settled by the decisions of this Court. In *The Management of Hotel Imperial, New Delhi and Others Vs. Hotel Workers' Union*, the question whether a master could suspend his servant during the pendency of an enquiry came up for consideration by this Court. Therein, this Court observed that it was well-settled that under the ordinary law of master and servant, the power to suspend the servant, without pay could not be implied as a term in an ordinary contract of service between the master and the servant but must arise either from an express term in the contract itself or a statutory provision governing, such contract. It was further observed therein that ordinarily in the absence of such a power either in express terms in the contract or under the rules framed under some statute would mean that the master would have no power to suspend a workman and even if he does so in the sense that he forbids the employee to work, he will have to pay the wages during the so-called period of suspension. Where, however, there is power to suspend either in the contract of employment or in the statute or the rules framed thereunder, the suspension has the effect of temporarily suspending the relationship of master and the servant with the consequence that the servant is not bound to render service and the master is not bound to pay.

8. The same view has reiterated by this Court in *T. Cajee Vs. U. Jormanik Siem and Another*, , The rule laid down in the above decisions was followed by this Court in *R.P. Kapur Vs. Union of India (UOI) and Another*, . The law on the subject was exhaustively reviewed in *Balvantray Ratilal Patel Vs. The State of Maharashtra*, . Therein, the legal position was stated thus: The general principle is that an employer can suspend an employee of his pending an enquiry into his misconduct and the only question that can arise in such a suspension will relate to the payment of his wages during the period of such suspension. It is now well-settled that the power to suspend, in the sense of a right to forbid an employee to work, is not an implied term in an ordinary contract between master and servant, and that such a power can only be the creature either of a statute governing the contract, or of an express term in the contract itself, Ordinarily, therefore, the absence of such a power either as an express term in the contract or in the rules framed under some statute would mean that an employer would have no power to suspend an and employee of his and even if he does so in the sense that he forbids the employee to work, he will have to pay the employee's wages during the period of suspension, Where, however, there is power to

suspend either in the contract of employment or in the statute or the rules framed thereunder, the order of suspension has the effect of temporarily suspending the relationship of master and servant with the consequence that the servant is not bound to render service and the master is not bound to pay. It is equally well-settled that an order of interim suspension can be passed against the employee while an enquiry is pending into his conduct even though there is no such term, in the contract of employment or in rules, but in such a case, the employee would be entitled to his remunerations for the period of suspension if there is no statute or rule under which it could be withheld. The distinction between suspending the contract of a service of a servant and suspending him from performing the duties of his office on the basis that the contract is subsisting is important. The suspension in the latter case is always an implied term in every contract of service. When an employee is suspended in this sense, it means that the employer merely issues a direction to him that he should not do the service required of him during a particular period. In other words, the employer is regarded as issuing an order to the employee which because the contract is subsisting, the employee must obey.

43. The next set of substantial questions urged by Mr. R. Krishnamoorthy, the learned Senior Counsel for the Petitioner required to be taken up for consideration is Whether the Syndicate Sub-Committee could place the Petitioner under suspension in the absence of Vice-Chancellor?, and Whether the action of the Syndicate Sub-Committee is liable to be interfered? Whether the order of suspension has been passed without any reasonable ground or probable cause?. and Whether the Syndicate Sub-Committee could exercise the powers of a Syndicate which is the competent authority to suspend the Petitioner either from the post of Controller of Examinations or from the post of Registrar in-charge?. All these could be discussed and considered together as they are interconnected.

44. The statutory provision of the University Act and the statutes of the University have already been referred and also extracted above. Already, it has been held that the Syndicate is the authority to suspend the Petitioner either from the Office of Registrar in-charge or the substantial Office of Controller of Examinations and the Vice-Chancellor is not the authority. The Syndicate is the appointing authority is fairly admitted.

45. In terms of Section 12 (4) (a) of the University Act in an emergent situation if in the opinion of the Vice-Chancellor an immediate action is required or should be taken, he may take such action with the sanction of the Chancellor or Pro-Chancellor and shall as soon as may report his action to the Officer or authority who ever or which would have ordinarily dealt with the matter. Thus, in case of emergency, the Vice-Chancellor could have passed the very order which the Syndicate, which is the authority under the Act could have passed namely the suspension of the Petitioner as well. In the present case, as seen from the impugned order, and as seen from the file produced by the counsel appearing for the Respondents with the sanction of the Chancellor, an order of suspension has

been passed by the Syndicate Sub-Committee as the office of Vice-Chancellor has fallen vacant. The Vice-Chancellor as such had applied his mind and had passed the order of suspension, which he would have been enabled u/s 12 (4) (a) as he has been conferred with requisite power or authority to pass an order in an emergent situation.

46. In this respect, the learned Additional Advocate General relied upon a decision of the Apex Court in *The Vice-chancellor, Jammu University and Another Vs. Dushiant Kumar Rampal*, . In the said case, an identical statutory provision was the subject matter of consideration and construction by their Lordships of the Apex Court. The statutory provision of the Jammu and Kashmir University Act is also identical. The statutory provision of the Jammu & Kashmir University Act is extracted hereunder: -"(4)The Vice-Chancellor may take action as he deems necessary in any emergency which in his opinion calls for immediate action. He shall in such a case and as soon as may be thereafter, report his action to the officer, authority, other body of the University concerned who or which would ordinarily have dealt with the matter".

47. There is, no doubt, in my mind that the said provision of the Jammu & Kashmir University Act as well as Section 12(4)(a) of the Madras University Act are in *pari materia*.- While considering the said provisions of the Jammu & Kashmir University Act with reference to an order of suspension made by the Vice-Chancellor, the Apex Court held thus:

8. We may first refer to Section 13, Sub-section (4) of the Act of 1969 which confers power on the Vice-Chancellor to take such action as he deems necessary in any emergency which in his opinion calls for immediate action. A similar provision was also made in Section 13, Sub-section (4) of the Act of 1965. But the Act of 1969 introduced a new provision in Sub-section (6) of Section 13 to the effect that the Vice-Chancellor shall be reasonable for the discipline of the University in accordance with the Act, Statutes and Regulations. The Vice-Chancellor Chancellor was, thus entrusted under Sub-section (6) of Section 13 with the tasks of maintaining discipline in the University and the entrustment of this task carried with it by necessary implication, power to take whatever action was necessary for the purpose of maintaining discipline, provided, of course, such action was in accordance with the Act of 1969 and the Statutes and Regulations. Since, Sub-section (6) of Section 13 was a new provision enacted in the Act of 1969, it was necessary to make Statutes for the purpose of enabling the Vice-Chancellor to effectively discharge the responsibility of maintaining the discipline of the University and for that purpose, vesting power in the Vice-Chancellor to suspend a teacher pending departmental-enquiry against him. It was with this object of bringing the statutes in conformity with Sub-section (6) of Section 13 that Statute 24 (ii) was added by way of modification in the Statutes by the order dated 24th December, 1969. We may concede straightway that if there was anything in the Act of 1969 which was inconsistent with the conferment of power of interim suspension on the Vice-Chancellor, Statute 24 (ii)

could not be approved by the Chancellor, because no statute can be made which is in conflict with any provision of the Act. But, we do not find anything in the Act of 1969 which militates against vesting of power in the Vice-Chancellor to order interim suspension of a teacher and hence Statute 24 (ii) must be held to be a statute validly approved by the Chancellor within his authority u/s 48, Sub-section (2). The view taken by the Chancellor that statute 24 (ii) was necessary for bringing the Statutes in conformity with Sub-section (6) of Section 13 cannot be in any event be said to be so plainly erroneous that the court would strike down statute 24 (ii) as invalid. Now, if Statute 24(ii) is valid, there can be no doubt that the Respondent would be bound by it and in that event, the order of suspension made by the Vice Chancellor would be clearly within the power conferred on him by that statute. It is true that the order of suspension did not recite statute 24 (ii) as the source of power under which it was made, but it is now well-settled, as a result of several decisions of this Court, that when an authority makes an order which is otherwise within its competence, it cannot fail merely because it purports to be made under a wrong provision of law, if it can be shown to be within its powers under any other provision; a wrong label cannot violate an order which is otherwise within the power of the authority to make Vide *Hukumchand Mills Ltd. Vs. The State of Madhya Bharat and Another*, and *P. Balakotaiah Vs. The Union of India (UOI) and Others*, .

9. We may also point out that the order of suspension was, in any event, justified by the provision in Section 13, Sub-section (4). The order of suspension, in fact, recited that it was made in exercise of the power conferred u/s 13, Sub-section (4). Sub-section (4) of Section 13 is general in terms and provides that the Vice Chancellor shall be [entitled to take such action as he deems necessary in any emergency which, in his opinion, calls for immediate action. It does not talk specifically of an order of Interim suspension of a teacher but the width and amplitude of the language of the provision would clearly include action byway of interim suspension of a teacher, when there is in the opinion of the Vice Chancellor an emergency calling for immediate action. The Respondent contended that the power to order interim suspension is a quasi judicial power and it would not be comprehended within the language of sub|Section (4) of Section 13. But, this contention is clearly fallacious and the premise on which it is based is unsound. It is not correct to say:hat an order of interim suspension is a quasi judicial order and in any event, the language of Sub-section (4) of Section 13 is sufficiently wide and comprehensive to take within its scope and ambit every kind of action which may be considered necessary by the Vice Chancellor in an emergency and there is no reason why such action should not include making of an order of interim suspension. The Vice Chancellor, therefore, clearly had power u/s 13, Sub-section (4) to make an order of interim suspension if he thought it necessary to make such an order in an emergent Situation which in his opinion called for immediate action. The Respondent sought to contend that at the date when the order of suspension was passed, there was no emergency which, called for immediate action on the part of the

Vice Chancellor and, therefore, the foundation for taking action u/s 13, Sub-section (4) was wanting and the order of suspension could not be justified under that provision. But, this contention cannot be entertained by us! since it has not been taken as a ground of challenge in the writ petition. Whether or not there was an emergency requiring immediate action on the part of the Vice Chancellor is entirely a question of fact and if the Respondent wanted to contest the validity of the exercise of power by the Vice Chancellor u/s 13 Sub-section (4) in making the order of suspension, he should have pleaded in the writ petition that the order of suspension was outside the power conferred u/s 13, Sub-section (4) as there was no emergency. The Respondent was aware from the recital contained in the order of suspension that it was made by the Vice Chancellor in exercise of the power conferred u/s 13, Sub-section (4) and, therefore, if the Respondent wanted to challenge the exercise of this power on the ground that there was no emergency justifying its exercise, he should have made an averment to that effect in the writ petition. If such averment had been made in the writ petition, the University and the Vice Chancellor would have had an opportunity of meeting it in the affidavit in reply filed by them, but no such averment having been made in the writ petition, the University and the Vice Chancellor were not called upon to meet it. Hence, we cannot permit the Respondent to challenge the validity of the order of suspension on the ground that there was no emergency attracting the applicability of Section 13, Sub-section (4). The order of suspension made by the Vice Chancellor was plainly and indubitably an order which the Vice Chancellor had power to make u/s 13, Sub-section (4). It may be noted that immediately after making the order of suspension, the Vice Chancellor placed it before the Syndicate at its next meeting as required by the second part of Section 13, Sub-section (4) and the Syndicate approved of the action taken by the Vice Chancellor by rejecting the representation of the Respondent and recording the fact of the making of the order of suspension.

48. The Apex Court, in that case, had occasion to consider the emergency power of the Vice Chancellor who had passed the order and the same has been upheld by the Apex Court. But this is not the case here. In the present case, the Syndicate Sub-Committee appointed to exercise the power of the Vice Chancellor had passed the order and, therefore, this aspect requires further consideration.

49. The learned senior counsel Mr. R. Krishnamoorthy appearing for the Petitioner contended that the exercise of such emergency power by the Vice Chancellor alone u/s 12(4)(a) of the Act could be sustained as it is a subjective satisfaction of the Vice Chancellor. The exercise of emergency powers by the Syndicate Sub-Committee, a substituted authority, cannot be sustained as the element of subjective satisfaction of the Vice Chancellor which is the primordial requisite for the exercise of the statutory power is absent and that apart, the Syndicate which is the competent authority to place the Petitioner under suspension is very much available and it is for the said authority is very much available and it is for the said authority to pass orders of suspension and the said authority had not chosen to pass an order nor was moved as such by placing this subject.

50. It was further contended by the Learned Senior Counsel for the Petitioner that there was neither justification nor warrant nor necessity for the Petitioner being placed under suspension as the Petitioner could have either been reverted to the post of Controller of Examinations or to the post of Professor of Criminology if the Syndicate, or the authority competent to suspend him had the object of keeping the Petitioner away from the Office of the Registrar. Hence, the impugned proceeding is liable to be quashed as arbitrary.

51. Per contra, Mr. T.R. Rajagopalan, learned Additional Advocate General contended that the Syndicate Sub Committee which has been constituted to exercise all the powers of the Vice Chancellor will have all powers as by fiction of law, the same powers that of Vice Chancellor and there is no warrant to interfere with the orders of suspension as the Syndicate Sub Committee as seen from the files had applied its mind and by taking into consideration of the relevant aspects and acceptable materials, placed the Petitioner under suspension. The learned Additional Advocate General also contended that no interference is called for in any view of the matter as the Syndicate Sub Committee is competent and interference is impermissible on merits by this Court exercising powers of Judicial Review under Art 226 of the Constitution.

52. As already pointed out neither this aspect of the matter had been raised nor been decided by the Apex Court in Jammu University v.D.K. Rampal or for that matter in the case decided by Natarajan, J in W.P. No. 8295 of 1984 (Dr. Maa. Selvarasan v. The Vice Chancellor, University of Madras and Anr.) and this position has been fairly admitted by the learned Additional Advocate General.

53. The learned Senior Counsel for the Petitioner also contended that the exercise of emergency power u/s 12(4)(a) by the Syndicate Sub-Committee even assuming to be valid at the inception and the said order of suspension cannot be continued indefinitely as it is incumbent u/s 12(4)(a) to place the matter before the Syndicate which had to consider the same and such placement should be sooner and should not be delayed. According to the learned Counsel for the Petitioner, such placement should be within a reasonable time which may even include notice period for convening the Syndicate, as seen from the arguments submitted by the learned Counsel for the Petitioner, such placement and approval by the Syndicate should not be delayed for more than a month.

54. In meeting these contentions, Mr. T.R. Rajagopalan, learned Additional Advocate General contended that what is required u/s 12(4)(a) is submitting a report of the emergency action taken to the Syndicate which would have ordinarily dealt with the suspension. As in the present case before the Syndicate Sub-Committee should report the matter to the Syndicate, the present writ petition has been filed and, therefore, the matter has not been reported. It is to be pointed out that normally a report should have been placed before the Syndicate within a reasonable time and there was no impediment much less there was no order of stay in this case.

55: In terms of Section 11 (4) when a temporary vacancy occurs in the office of the Vice Chancellor, the Syndicate shall as soon as possible make the requisite arrangements for exercising the powers and perform the duties of the Vice Chancellor. The first Respondent is the authority or the body which the Syndicate has constituted by virtue of powers conferred u/s 11 (4) of the Act. Hence, it is needless to emphasise that the first Respondent could exercise all the powers and perform duties of the Vice Chancellor. In other words, by a legal fiction in terms of the said statutory provision and as per the arrangement made by the Syndicate which had constituted the authority, namely the Syndicate Sub-Committee, the said Committee will exercise the very powers and perform the very duties or functions of the Vice Chancellor.

56. In other words, by a fiction, the said authority constituted as per the arrangements of the Syndicate will be the Vice Chancellor for the time being to exercise all the powers and perform duties of the Vice Chancellor. This should be effect of legal fiction and any other meaning being given to Section 11(4) will render the provision otiose. It is well-settled that while interpreting a deemed provision, such provision should be extended to the consequences and incidents which would inevitably follow if full effect is given to the deeming provision and it should be carried to its logical conclusion. In *American Home Products Corporation Vs. Mac Laboratories Pvt. Ltd. and Another*, the Apex Court after following the earlier decision in *The State of Bombay Vs. Pandurang Vinayak Chaphalkar and Others*, held thus:

56-A. In a celebrated passage Lord Asquith of Bishopstone in *East End Dwellings Co. Ltd. v. Finsbury Borough Council* said (at page 132):

If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it.

57. In *The State of Bombay v. Pandurang Vinayak Chaphalkar* this Court held (at page 778) while approving the above passage of Lord Asquith:

When a statute enacts that something shall be deemed to have been done, which in fact and truth was not done, the court is entitled and bound to ascertain for what purposes and between what persons the statutory fiction is to be resorted to and full effect must be given to the statutory fiction and it should be carried to its logical conclusion.

57A. The purposes for which the said fiction has been enacted are set out in Section 48(2). These purposes are the purposes of Section 46 or for any other purpose for which such use is material under the 1958 Act or any other law. To confine the purpose only to a part of Section 46 would be to substantially cut down the operation of the legal fiction. The purpose for which the legal fiction is to be resorted to is to deem the permitted use of a trade mark which means the use of the trade mark by a registered user thereof, to be the use by the proprietor

of that trade mark. Having regard to the purposes for which the fiction in Section 48(2) was created and the persons between whom it is to be resorted to, namely, the proprietor of the trade mark and the registered user thereof, and giving to such fiction its full effect and carrying it to its logical conclusion, no other interpretation can be placed upon the relevant portions of Section 18(1) and of Clause (a) of Section 46(1) than the one which we have given.

58. Although full effect must be given to the legal fiction, but at the same time such legal fiction should not be extended beyond the purpose for which it is created. As such legal fictions are created only for some definite purposes and it shall not be extended beyond that field as has been held by the Apex Court in *The Bengal Immunity Company Limited Vs. The State of Bihar and Others*, . The relevant passage reads thus:

Legal fictions are created only for some definite purpose. Here the avowed purpose of the Explanation is to explain what an outside sale referred to in Sub Clause (a) is.

The Judicial decisions referred to in the dissenting judgment in *State of Travancore Cochin v. Shanmuga Vilas Cashew Nut Factory (U) (Supra)* at pp.342 and 343 and the case of "*East EM Dwellings Co. Ltd v. Finsbury Borough Council*". 1952 AC 109 at p. 132 (z) clearly indicate that a legal fiction is to be limited to the purpose for which it was created and should not be extended beyond that legitimate field.

58.A. In *Khemka and Co. (Agencies) Pvt. Ltd. Vs. State of Maharashtra*, , the Supreme Court had occasion to consider an illustrative case of restriction of the effect of the fiction to the avowed object and it has been held thus:

53. In effect, what Section 9(2) says is that Sales Tax and penalties payable by a dealer under the Central Act are deemed to be Sales Tax and penalties payable under the general Sales Taxes law of the State and the Sales Tax Authorities of the State can exercise all or any of the powers they have under the general Sales Tax law of the State for the purpose of assessment, reassessment, Collection and for enforcing payment of that tax. So if the Sales Tax Authorities of a State have power, when enforcing payment of Sales Tax payable under the general Sales Tax law of the State, to impose penalty for non-payment of tax within prescribed time, they will have a like powers to impose penalty for enforcing payment of the tax payable under the Central Act within the time prescribed. It was not necessary that power to impose penalty for enforcing the payment of tax payable by a dealer under the Central Act should have been specifically provided in or conferred separately by the Sub-section upon the Sales Tax Authorities of the State, because the power to enforce payment of tax payable under the general Sales Tax law of the State has been given by it. As the power to impose penalty is specifically provided for in Section 16 of the Bombay Sales Tax Act for enforcing payment of tax payable under it, it is unnecessary to speculate whether, but for the express provision in that Act, a power to impose penalty for

enforcement of tax payable under that Act would have been implied. The object of the provision for the imposition of penalty in Section 16 of the Bombay Sales Tax Act is to provide a stimulant to the dealer to observe the mandate of the section directing the payment of the tax within the prescribed time. In other words, the provision for imposition of penalty in Section 16 of the Bombay Sales Tax Act facilitates, the collection of tax as it is a sanction for non-observance of the duty to pay the tax within the prescribed time. It operates as a deterrent against the commission of breach of that duty, and is a means to enforce the payment of tax within the time prescribed.

54..... It is a general principle of law that all powers which are necessary and appropriate to effectuate the main grant of power will be implied.

59. The Legislature may, at times, create a chain of fictions in the same enactment or by succeeding enactments and the legal effect of one or more fictions will have the same effect as if it were an order made by the competent authority. In *Bishambar Nath Kohli and Others Vs. State of Uttar Pradesh and Others*, the Apex Court held thus:

(7) By Ordinance 27 of 1949, a proceeding commenced under Ordinance 12 of 1949 or anything done or action taken in the exercise of the powers conferred under that Ordinance was to be deemed a proceeding commenced, thing done and action taken under the former Ordinance as if that Ordinance were in force on the date on which the proceeding was commenced, thing was done or action was taken. Section 58 (3) of Act 31 of 1950 contained a similar deeming provision that anything done or action taken in exercise, of the power conferred under Ordinance 27 of 1949 is to be deemed to have been done or taken in exercise of the power conferred by or under Act 31 of 1950. as if the Act were in force on the day on which such thing was done or action was taken.

(8) By this chain of fictions, things done and actions taken under Ordinance 12 of 1949 are to be deemed to have been done or taken in exercise of the powers conferred under Act 31 of 1950, as if that Act were in force on the day on which such thing was done or action taken. The order passed by the Deputy Custodian u/s 6 of Ordinance 12 of 1949, was, therefore, for the purpose of this proceeding, to be deemed an order made in exercise of the power conferred by Act 31 of 1950 as if that Act were in force on the day on which the order was passed.

60. It is also well-settled "that legal fictions not only could be created by the legislature but also by a delegated legislature and such creation of fiction has been held to be permissible. In the present case, it is a legal fiction in the place of Vice Chancellor, an authority constituted namely an authority nominated or constituted by the Syndicate to exercise all the powers of the Vice Chancellor and, therefore the said authority by a legal fiction will be the Vice Chancellor to exercise all the powers of the Vice Chancellor under the Act or the statutes framed or the ordinances issued. In *Union of India and others Vs. M/s. Jalyan*

Udyog and another, it has been held thus:

..It is well-settled that where a fiction is created by a provision of law, the Court must give full effect to the fiction, and as is often said, it should not allow its imagination to be boggled by any other considerations. Fiction must be given its due play; there is to be no half-way stop...

61. Thus on a consideration of the above pronouncements of the Apex Court, this Court holds that by legal fiction the Syndicate Sub-Committee is the Vice Chancellor and it could exercise all the powers of Vice Chancellor and the contention raised by the Petitioner to the contra cannot be countenanced. Therefore, it follows that the order of suspension passed by the Syndicate Sub-Committee, which is competent in all respects is valid and not liable to be quashed as one without authority in that the said Committee is the Vice Chancellor to exercise all the powers of the Vice-Chancellor in the absence of the Vice-Chancellor or when a vacancy occurs in the said office of Vice Chancellor.

62. A statute is an edict of the Legislature and the conventional way of interpreting or construing a statute is to seek intention of its maker. It is well-settled that a statute is to be construed according to the intent of the Legislature that may edict and the duty of the court is to act on the true intention of the Legislature. If the statutory provision is open to more than one interpretation, the court has to choose that interpretation which represents the true intention of the Legislature, which is also referred to as the legal meaning of the statutory provision. The text of the statute has to be taken as a whole for ascertaining the purpose of the statute as well as to ascertain the intention behind the statutory provision. On the consideration of the above statutory provision, this Court finds that only one interpretation is permissible and in terms of the said statutory provision, this Court holds that the impugned proceeding passed by the Syndicate Sub-Committee is in accordance with the authority or power conferred by the statutory provision and as such no interference is called for as it is well within the jurisdiction of the said authority.

63. On a consideration of the impugned order and the file placed before this Court, there is no doubt that the said committee had applied its mind and placed the Petitioner under suspension after securing the approval of the Chancellor. The application of mind is not lacking and it is the subjective satisfaction of the said authority namely the Syndicate Sub-Committee which had taken into account all the relevant materials and had taken a decision to suspend the Petitioner. It is not for the court to go into merits or see what material the said Committee had taken into consideration and the said decision of the Syndicate Sub-Committee is not liable to be interfered. It cannot also be held that the Syndicate Sub-Committee had taken into consideration materials which are extraneous or otherwise unsustainable while taking its decision or opinion to suspend the Petitioner nor it could be held to be vitiated in any view as with the conclusion or decision or assessment of the objective facts and even on subjective satisfaction, this Court finds that no interference is called for in this respect as well.

64. In the writ petition, the Petitioner had not only sought for quashing of the impugned order, but also consequently prayed for a direction to restore the Petitioner to the post of Registrar in-charge or Controller of Examinations or Professor of Criminology. As this Court has already upheld the order of suspension, this Court is of the view that it is not necessary to issue consequential directions. However, it should not be lost sight that the intendment of the impugned order of suspension being to keep the Petitioner away from the post of Registrar in-charge and also from University.

The impugned proceedings " had not been placed before the Syndicate and the Syndicate or successor or other authority had not taken subsequent action so far. Hence, in the interest of justice, it would be fit and proper to direct the Respondents to review the order of suspension within six weeks from today.

65. At least now the Respondents shall take into consideration whether the continuance of suspension is still warranted or the Petitioner could be either reverted back as Professor of Criminology, which is his substantive post as the same would keep him away from the administration and affairs of the University. Such a course is desirable and it is for the Respondents to pass appropriate orders in this respect without delay and at the earliest opportunity.

66. However, it is made clear that even if the Petitioner is to be repatriated to his substantive post and even after such repatriation, it is always open to the Respondent-University to continue the disciplinary proceedings with respect to the alleged misconduct if any, in the discharge of Petitioner's function as Registrar in-charge and mere repatriation will not mean that the Petitioner is exonerated or exculpated..

67. In the circumstances, this Court holds that the Syndicate Sub-Committee which has passed the impugned order is competent to place the Petitioner under suspension. On the facts of the case, this Courts further holds that the action of the Syndicate Sub-Committee is not liable to be interfered on merits nor it is vitiated by illegalities or mala fides or arbitrariness and the Syndicate Sub-Committee could exercise the powers of the Vice Chancellor,¹ in case of emergency and has got the power to suspend the Petitioner from the post of Registerar in-Charge.

68. In the foregoing circumstances, this Court (i) dismisses the writ petition while upholding the order of suspension as having been made validly; (ii) direct the Respondents to pay full wages to the Petitioner during the period of suspension; (iii) direct the Respondents to review the order of suspension, within six weeks from today and pass orders, taking into consideration of the subsequent developments and in the light of the observations made above.

69. In the peculiar circumstances of the case, this Court directs that the parties shall bear their respective costs in this writ petition.