
(2013) 01 MAD CK 0266

In the Madras High Court

Case No : W.A. (MD) No. 965 of 2012, W.A. (MD) No. 966 of 2012 and W.A. (MD) No. 989 of 2012

Dr. M. Dhavamani Christoher

APPELLANT

Vs

Dr. S. David Amirtha Rajan and Others

RESPONDENT

Date of Decision : 01-01-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 162, 226, 30, 30(1)
Indian Medical Council Act, 1956 — Section 33
Tamil Nadu Private Colleges (Regulation) Act, 1976 — Section 15, 26
University Grants Commission Act, 1956 — Section 14

Citation : (2013) 2 LLN 520 : (2013) 2 MLJ 681

Hon'ble Judges : S. Nagamuthu, J; M. Jaichandren, J

Bench : Division Bench

Advocate : V. Prakash, for M.E. Ilango, for the Appellant; R. Thiyagarajan, for E.V.N. Siva for Caveator, Vijay Karthikeyan, M. Govindan, Special Government Pleader, M. Ajmalkhan, for M. Mahaboob Athiff, S. Muthugeethayan and V. Panneer Selvam, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—Since the issues involved in all the above writ appeals are similar in nature, they have been taken up together and a common Judgment is being passed. The writ appeals, in W.A. (MD) No. 965 of 2012, W.A. (MD) No. 966 of 2012 and W.A. (MD) No. 989 of 2012, have been filed before this Court challenging the common order, dated 15.10.2012, made in W.P. (MD) Nos. 2556 and 9361 of 2012, on various grounds, as mentioned therein.

2. Insofar as the writ appeals, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, are concerned, the appellant was the eighth respondent, in W.P. (MD) No. 2556 of 2012 and he was the fifth respondent, in W.P. (MD) No. 9361 of 2012. Insofar as the writ appeal, in W.A. (MD) No. 989 of 2012, is concerned, the first appellant in the writ appeal is the Bishop-President, the Governing Council of the American College, Madurai, and the second appellant in the said

writ appeal is the Governing Council of the American College, Madurai, who were the seventh and the fifth respondents, respectively, in W.P. No. 2556 of 2012.

3. The writ petition, in W.P. (MD) No. 2556 of 2012, had been filed by Dr. S. David Amirtha Rajan, (hereinafter referred to as the "Writ Petitioner") praying that this Court may be pleased to issue a writ of Certiorarified Mandamus to quash the impugned order issued by the Bishop--President, the Governing Council of the American college, Madurai, the seventh respondent therein, dated 28.10.2011, appointing Dr. M. Dhavamani Christoher, the appellant in the writ appeals, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, (hereinafter referred to as the "Appellant") as the Principal of the American college, Madurai (hereinafter referred to as "the college") and for a further direction, directing the Governing Council of the American College, Madurai, the fifth respondent in the writ petition, to appoint the writ petitioner, namely, Dr. S. David Amirtha Rajan, as the Principal of the said college and for further orders.

4. The writ petition, in W.P. (MD) No. 9361 of 2012, had been filed praying that this Court may be pleased to issue a writ of certiorari to quash item No. 31 of the impugned minutes of the Madurai Kamaraj University, dated 2.6.2012, and the subsequent proceedings issued by the Registrar in-charge of the said University, dated 29.6.2012, granting educational qualification approval for the appointment of Dr. M. Dhavamani Christoher, as the Principal of the American College, Madurai, and for other orders.

5. The learned single Judge, in his common order, dated 15.10.2012, made in W.P. (MD) Nos. 2556 and 9361 of 2012, had held that it is a settled law that the Regulations framed by the University Grants Commission have an overriding effect and are binding on all the States, Colleges and Universities. The Regulations come into force on the date of the notification and are not subject to adoption by the University concerned and therefore, the Madurai Kamaraj University was not right in contending that the University Grants Commission Regulations 2000 were applicable to the facts of the present case, for want of adoption of the 2010 regulations. However, the learned single Judge had held that it is for the Madurai Kamaraj University and the other experts to consider whether the Ph. D. in Education (Inter disciplinary) with Mathematics, as one of the subjects, could be recognised as a Ph. D. in concerned/allied subject, which is the qualification prescribed, under the 2010 regulations of the University Grants Commission, for being appointed as the Principal of the college. However, it had been held that the approval granted for the appointment of Dr. M. Dhavamani Christoher cannot be sustained, as it was based on the 2000 Regulations, which were not in force at the relevant point of time.

6. The learned single Judge had also held that it is an admitted case that Dr. M. Dhavamani Christoher was a party to the selection of the members of the search committee for holding the interview during the selection process, for filling up the post of the Principal of the college. The learned single Judge had further held that it was not in dispute that the appellant's father-in-law was the Chairman of

the search committee. The selection of the candidate, for the post of the Principal of the college, was not based on a written examination, based on which marks had been awarded by the selection committee, for the purpose of knowing the comparative merits of the candidates. The selection was by way of voting, by the Members of the Governing Council, who could have been under the influence of Dr. M. Dhavamani Christoher, as he had been a Member of the Governing Council and as his father-in-law was the Chairman of the search committee. The learned single Judge had relied on the decisions of the Supreme Court, in *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, and, in *Delhi Fin. Corpn. and Another Vs. Rajiv Anand and Others*, wherein, it had been held that no man can be a Judge in his own cause, to arrive at his conclusion that the selection and appointment of Dr. M. Dhavamani Christoher, as the Principal of the college, is bad in law.

7. The learned single Judge had further held that it was for the college to adopt a method to fill up the post of the Principal of the college, as it is a minority institution. However, when it had been decided to fill up the post, by way of an advertisement in the newspaper, it was not open to the minority institution to act in an arbitrary manner, as it is well settled in law that justice should not only be done, but it should be seen to be done, as well. Thus, the learned single Judge had allowed the writ petition, by quashing the appointment of the appellant and the approval granted by the Madurai Kamaraj University, with regard to the educational qualifications necessary for his appointment to the post of the Principal of the college.

8. The learned single Judge had further directed the Governing Council of the college and the Bishop-President, the Governing Council of the college, to make a fresh selection for the post of the Principal of the college, by adopting a fair process of selection. However, the request of the writ petitioner, for being appointed as the Principal of the college, had been rejected by stating that this Court cannot act as the selection committee to determine the merits of the candidates concerned.

9. The learned counsel appearing on behalf of the appellant, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, had submitted that the learned single Judge had erred in quashing the impugned proceedings on the ground that the Madurai Kamaraj University had granted the approval, regarding the qualification needed for the appointment of the appellant, as the Principal of the college, based on the University Grants Commission regulations of the year 2000 and not on the basis of the University Grants Commission Regulations of the year 2010, even though there were major changes in the basic qualifications necessary for such appointment, in the subsequent Regulations. However, the learned Judge, had, in paragraph 54 of the impugned order, observed that the Court would not like to comment, at that stage, as to whether the appellant was in possession of the necessary qualifications, for being appointed as the Principal of the college. As such, the learned single Judge, without addressing the crucial

question as to whether the appellant was qualified for being selected for the post of the Principal of the college, had quashed the appointment, without recognising the fundamental rights of the aided minority institution to select and appoint any person of its choice, as the Principal of the college.

10. The learned counsel had further submitted that the appellant had all the necessary qualifications prescribed for being appointed as the Principal of the college, as per the University Grants Commission Regulations of the year 2000, which prescribes that the candidate should possess a Ph. D. or equivalent published work to be considered for such selection. It is not in dispute that the appellant has such a qualification. Even if it could be said that the University Grants Commission Regulations of the year 2010 should have been made applicable, during the process of the selection and appointment, for the post of the Principal of the college, it could be clearly seen that the appellant possesses all the necessary qualifications prescribed under the said Regulations. As per the Regulations of the year 2010, a candidate should possess a Ph. D. degree in concerned/allied/relevant disciplines in the institution concerned with evidence of published work or research guidance. The appellant has obtained a Ph. D. degree in education (Interdisciplinary) with Mathematics as one of the subjects. As such, it could be seen that the appellant is possessing the necessary qualification, as Mathematics is one of the subjects being taught in the college.

11. The learned counsel had further submitted that any qualification, which is prescribed, either under the Regulations of the year 2000 or under the Regulations of the year 2010, should relate, specifically, to the post for which the selection has to be made. If so, it cannot be in dispute that the appellant possesses all the necessary qualifications, for being selected and appointed as the Principal of the college. Therefore, the claim of the petitioner in the writ petitions that the appellant does not possess the necessary qualifications, for being selected and appointed as the Principal of the college, by stating that the Regulations of the year 2010 had not been adopted by the Syndicate of the Madurai Kamaraj University, cannot be sustained in the eye of law. In fact, the learned single judge had held, in his order, dated 15.10.2012, that the University Grants Commission Regulations of the year 2010 would be binding on the Madurai Kamaraj University, even if it had not been adopted by its Syndicate, as claimed by the petitioner in the writ petitions.

12. The learned counsel had further submitted that the learned single Judge had not analysed the real scope and applicability of the words "Concerned", "Allied" and "Relevant", while holding that the appointment of the appellant, namely, Dr. M. Dhavamani Christofer, as the Principal of the college and the subsequent approval of his qualification, by the Madurai Kamaraj University, as arbitrary and illegal.

13. The learned counsel had further submitted that the Ph. D. degree awarded to Dr. M. Dhavamani Christofer, by the Alagappa University, Karaikudi, is in Education-Interdisciplinary (Education and Mathematics). The thesis submitted

by the appellant was relating to "Concept Mapping on Mathematics Education through Computer Assisted Instruction". Even though, by its proceedings, dated 4.10.2012, the Alagappa University, had withdrawn the Ph. D. certificate issued to the appellant, in Education-Interdisciplinary (Education and Mathematics) and had issued a revised Ph. D. degree certificate in "Education", it would not make any difference to the basic qualifications possessed by the appellant for being considered for the post of the Principal of the college. Further, the said proceedings of the Alagappa University, dated 4.10.2012, had been stayed by this Court, by its order dated 25.10.2012, made in M.P. (MD) No. 1 of 2012, in W.P. (MD) No. 13724 of 2012. As such, the contention raised on behalf of the petitioner in the writ petitions that the appellant does not possess the necessary qualifications for being considered for the post of the Principal of the college cannot be sustained.

14. The learned counsel had further submitted that the petitioner in the writ petitions, having participated in the process of selection for the post of the Principal of the college, cannot challenge the said process, after the appellant, namely, Dr. M. Dhavamani Christoher, had been selected and appointed as the Principal of the college. The petitioner should be deemed to have given his acquiescence, with regard to the validity of the selection process. Therefore, it would not be open to him to question the same, thereafter.

15. The learned counsel had further submitted that the college, being an aided minority institution, has the right, under Article 30 of the Constitution of India, to establish and manage its own affairs in the administration of the college, which includes the right to choose its own process to select the candidate of its choice, for the post of the Principal of its college. The concept of fairness and bias are relative terms, which would not be applicable to the process of selection of a suitable candidate for the post of the Principal of an aided minority institution with the same vigour, as it would in other cases and circumstances. When aided minority institutions are permitted to appoint any person of its choice to manage its affairs, it cannot be held that the procedures followed by the search committee are arbitrary and invalid in the eye of law. In fact, fair procedures had been followed by the search committee, which had shortlisted the writ petitioner, as well as the appellant, for being considered for the filling up of the post of the Principal of the college. Thereafter, the system of voting, by secret ballot, had been followed for making the final selection to fill up the said post.

16. The learned counsel had further submitted that the Bishop of the Diocese of Madurai and Ramnad was the President of the Governing Council of the college, as per the relevant bye-laws governing the formation of the said council. The Governing Council had appointed the search committee. However, when it had been known that the appellant, Dr. M. Dhavamani Christoher, who is the son-in-law of the Bishop, had submitted his application for the post of the Principal, he had recused himself from further participation in the selection process. The appellant had also recused himself from being a Member of the Governing

Council. As such, there was no bias in the process of selection of the appellant as the Principal of the college.

17. The learned counsel had further submitted that the writ petitioner, as well as the appellant, Dr. M. Dhavamani Christoher, had been shortlisted for being considered for the post of the Principal of the college. Thereafter, the appellant had been selected to fill up the said post, by way of voting, from amongst the Members of the Governing Council. The appellant, namely, Dr. M. Dhavamani Christoher, had obtained six votes, whereas the petitioner in the writ petitions had obtained only two votes. Thus, the appellant, in W.A. (MD). Nos. 965 and 966 of 2012, had been selected as the Principal of the college in an unbiased manner, by following fair procedures. Therefore, it cannot be said that his appointment, as the Principal of the college, had been done in an arbitrary and biased manner.

18. The learned counsel had further submitted that the Bishop, who had been appointed as the Chairman of the Selection Committee, had withdrawn himself from the said committee, as the appellant, Dr. M. Dhavamani Christoher, happened to be one of the candidates for the post, prior to the interview/shortlisting of the candidates, on 28.10.2011. This fact has not been noted by the learned single Judge, while passing the order, dated 15.10.2012, setting aside the selection and appointment of the said appellant, as the Principal of the college. Further, the writ petitioner, Dr. S. David Amirtha Rajan, who had also been shortlisted by the search committee, for being considered for the said post, cannot have a grievance with regard to the selection process. As the appellant, Dr. M. Dhavamani Christoher, was a shortlisted candidate, Rt. Rev. Dr. A. Christopher Asir, his father-in-law had recused himself from the further process of selection and appointment of the candidate, as the Principal of the college, by the Governing Council.

19. The learned counsel had further submitted that the appellant, Dr. M. Dhavamani Christoher, had also withdrawn himself from the meetings of the council, which had voted in his favour, by a substantial majority. Thus, it could be seen that there was no chance of bias either real or perceived, as alleged by the writ petitioner, namely, Dr. S. David Amirtha Rajan. A majority of the Members of the Governing Council had voted in favour of the appellant having found that he was the best candidate to fill up the post of the Principal of the college. Once a candidate has the basic qualifications to be considered for the said post, no comparative assessment could be made, amongst the candidates, based on the qualifications prescribed by the Regulations of the University Grants Commission, at the stage of the final selection. Therefore, the contention raised on behalf of the writ petitioner that he was more meritorious, academically, cannot be countenanced.

20. The learned counsel had further submitted that the father-in-law of the appellant, namely, Rt. Rev. Dr. A. Christopher Asir, who was the Bishop and the President of the Governing Council of the college, had not influenced, in any way,

the process of selection of the appellant, as the Principal of the college, as alleged by the writ petitioner. The writ petitioner has not been in a position to show, by way of evidence, that the selection and appointment of the appellant, as the Principal of the college, was biased. Mere suspicion of bias would not be sufficient to nullify the selection process, especially, when it relates to an aided minority institution.

21. The learned counsel had further submitted that when the learned single Judge, who had passed the order, dated 15.10.2012, which is under challenge in the present writ appeals, had not arrived at a conclusion that the appellant does not possess the basic qualifications necessary for being considered for the post of the Principal of the college, the setting aside of the selection and appointment of the appellant, as the Principal of the college, cannot be held to be right or proper. Further, the Madurai Kamaraj University had also granted its approval regarding the qualification of the appellant for being appointed, as the Principal of the college. In fact, the Principal of the college would have more of administrative functions to perform rather than being a full time Professor of the college. His knowledge and experience would make a major difference in the administration of the college. Therefore, it is not pure academic merit that should form the basis of the selection process of the candidate to the post of the Principal of the college.

22. The learned counsel had further submitted that the writ petitioner could not have been an aggrieved person, as he was in the zone of consideration, after having been shortlisted for being considered for the post of the Principal of the college. While so, it would not be open to him to challenge the final selection, which was by way of voting, by secret ballot. As such, the process followed by the Governing Council of the college, in choosing its candidate, to fill up the post of the Principal of the college, cannot be held to be contrary to the principles enshrined in the Article 14 of the Constitution of India. Thus, it is clear that there was no palpable bias in the selection and appointment of the appellant, as the Principal of the college, contrary to the allegations levelled by the writ petitioner. When it could be seen that the procedures adopted by the Governing Council of the college was rational, the learned single Judge had erred in holding that the selection and appointment of the Principal of the College was arbitrary in nature.

23. The learned counsel for the appellant had contended that there was no bias in the selection process, based on which the appellant had been selected and appointed as the Principal and Secretary of the college. He had submitted that the learned Judge had erred in arriving at his conclusion that the selection process was biased, as Rt. Rev. Christopher Asir, the father-in-law of the appellant, was the Chairman of the search committee and that the appellant was himself a Member of the Governing Council of the college.

24. The learned counsel for the appellant had further contended that the learned Judge had not noted the fact that Rt. Rev. Christopher Asir was the Chairman of the search Committee, as per the bye-laws of the Governing Council of the college. Further, the appellant was a member of the Governing Council of the

college, as he was the Bursar of the college. However, they had recused themselves at the appropriate stages of the selection process. Thereafter, they had no role, whatsoever, in the selection process of the shortlisted candidates, for the post of the Principal of the college.

25. The learned counsel had further contended that the procedures followed for the shortlisting of the candidates, by the search committee, had not been challenged by the writ petitioner, namely, Dr. S. David Amirtha Rajan. As Dr. S. David Amirtha Rajan was one of the two candidates shortlisted by the search committee and as he had participated in the entire selection process, it would not be open to him to challenge the same, after the said process had been completed and the appellant had been appointed as the Principal of the college. As Dr. S. David Amirtha Rajan had not challenged the process of selection until it had attained finality, it could be held that he had acquiesced to the said process. Therefore, it would not open to him to challenge the same, at a later stage, as he had done, by way of filing the writ petitions before this Court, in W.P. (MD) Nos. 2556 and 9361 of 2012.

26. The learned counsel had further contended that the issue relating to bias cannot be made applicable in a strict sense, with regard to the selection and appointment of the appellant to the post of the Principal and Secretary of the college, as it is an aided minority institution. As per the provisions of Article 30 of the Constitution of India, a religious minority institution has the right to establish and administer its own affairs. As such, the Governing Council of the college has all the powers necessary to choose its own candidate, on whom it has sufficient confidence, to fill up the post of the Principal and Secretary of the said institution.

27. The learned counsel had further contended that the process of selection was fair and proper, as it could be seen that it had been done by forming a search committee, which had shortlisted the candidates for being considered for the post of the Principal and Secretary of the college, and the final selection for the said post had been done by way of voting, by secret ballot. Therefore, there is no bias in the said process.

28. The learned counsel for the appellant had further contended that the appellant had obtained a Ph. D. degree in Education (Inter disciplinary), with Mathematics, which is relevant for the post of the Principal of the college, as it is one of the subjects taught in the college. The qualifications prescribed by the University Grants Commission Regulations 2010, a candidate is to possess a Ph. D. degree in concerned/allied/relevant disciplines in the institution concerned. The University Grants Commission had included the words concerned/allied/relevant in its Regulations of the year 2010, only with the view to have a wider field from which the candidates could be selected. As such, the Ph. D. degree obtained by the appellant in Education (Inter disciplinary), with Mathematics, would fall, atleast under one of such categories. Even after a revised Ph. D. degree certificate had been issued by Alagappa University, the appellant would have the necessary qualification, as the subjects of Education and Mathematics

would be relevant for the post of the Principal of the college. As the Principal of the college, primarily, deals with the administration of the institution, the qualifications prescribed by the University Grants Commission Regulations should be interpreted, necessarily, to be post specific. Thus, it is clear that the appellant was fully qualified for being selected and appointed as the Principal of the college. Therefore, the order passed by the learned single Judge, dated 15.10.2012, in W.P. (MD) No. 2556 and 9361 of 2012, setting aside the appointment of the appellant, as the Principal and Secretary of the College, cannot be held to be correct and valid in the eye of law. Therefore, the common order passed by the learned single Judge, dated 15.10.2012, made in W.P. (MD) Nos. 2556 and 9361 of 2012, is liable to be set aside and the selection and appointment of the appellant, as the Principal of the college, is liable to be confirmed.

29. The learned counsel for the appellant, in W.A. (MD) No. 989 of 2012, had submitted that the college, being a minority educational institution, has the right to appoint any qualified person, as the Principal of the college, in accordance with the rights guaranteed under Article 30(1) of the Constitution of India.

30. The learned counsel had also submitted that the learned single Judge, who had passed the order, dated 15.10.2012, ought not to have set aside the appointment of Dr. M. Dhavamani Christoher, the seventh respondent in the writ appeal, in W.A. No. 989 of 2012, especially, when he had left open the question relating to his qualification to be decided by the Madurai Kamaraj University.

31. The learned counsel had further submitted that it is a well settled position in law that a person, who had taken part in the selection process, without challenging the same, should not be allowed to challenge the said process, after he had been unsuccessful in the process of selection.

32. He had submitted that the learned Judge ought to have found that the first appellant, in W.A. (MD) No. 989 of 2012, had recused him-self from the search committee and the seventh respondent had not taken part in the Governing Council meeting, held on 28.10.2011, pursuant to which he had been appointed as the Principal and Secretary of the college.

33. The learned counsel had further submitted that the college, being a minority institution, is entitled to appoint any qualified person of its choice, by adopting a rational procedure. As such, the first respondent, who was the writ petitioner, in W.P. (MD) Nos. 2556 and 9361 of 2012, has no local standi to question the appointment of the seventh respondent as the Principal and Secretary of the college.

34. The learned counsel had further submitted that the first respondent, having been shortlisted by the search committee, cannot claim that there was bias in the selection process, as he had a fair chance of being selected and appointed for the post of the Principal and Secretary of the college. Further, the final selection had been made by way of voting, by secret ballot.

35. The learned counsel had further submitted that the learned single Judge had not held that the appellant in the writ appeals, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, was not qualified, as per the University Grants Regulations of the year 2010. While so, the learned Judge ought to have recognised the fact that the seventh respondent was in possession of a Ph. D. degree (Interdisciplinary) in Education, with Mathematics, which is one of the disciplines taught in the college.

36. Per contra, the learned counsel appearing on behalf of the writ petitioner, the first respondent in the above writ appeals, had submitted that the learned single Judge was right in setting aside the appointment of the appellant, in W.A. (MD) Nos. 965 of 2012 and 966 of 2012, as the Principal of the college, and the approval granted by the Madurai Kamaraj University, with regard to his educational qualifications.

37. The learned counsel had further submitted that the procedures followed in the selection and appointment of the appellant, as the Principal of the college, is liable to be set aside, as it had been biased. As the procedure adopted in the selection process was not fair it is violative of Article 14 of the Constitution of India.

38. The learned counsel had further submitted that the appellant does not possess the required qualifications for being selected and appointed as the Principal of the college. He had further submitted that the writ petitioner is more qualified, academically, than the appellant in the writ appeals, in W.A. (MD) Nos. 965 of 2012 and 966 of 2012. The writ petitioner has put in more than 29 years of unblemished and uninterrupted service in the college. However, the appellant, in W.A. (MD) Nos. 965 of 2012 and 966 of 2012, had been selected for being appointed, as the Principal of the college, only due to the reason that he is the son-in-law of Rt. Rev. Dr. A. Christopher Asir, who was the Chairman of the search committee and the President of the Governing Council of the college.

39. The learned counsel had further submitted that, when the writ petitioner was called for the interview, on 28.10.2011, the appellant, who was the Bursar of the college and a candidate for the post of the Principal of the college, was also present, along with the search committee members. The Bishop-President, as the Chairman of the search committee, had briefed the candidates before the final selection process had taken place.

40. The learned counsel had further pointed out that, at the time of the interview, Rt. Rev. J. Devakadatcham Bishop, (SYNOD) nominee to the Governing Council, had chaired the search committee and Mr. C. Fernandas Rathinaraja (Bishop's nominee from Madurai-Ramnad Diocese to the Council) and Mr. Daniel Ezhilarasu (AIACHE nominee to the Council) were acting as its members. After the interview, the search committee had expressed its full satisfaction over the academic qualifications and the professional experience of the writ petitioner and it had made an observation, with regard to the performance of the writ

petitioner, stating that he had been rated as "excellent". The appellant, the Bursar of the college and the son-in-law of the Bishop, had also interviewed the candidates for the post of the Principal of the college. Even though the writ petitioner had been shortlisted by the search committee, along with the appellant, the final selection had been made by voting, by secret ballot, without proper application of mind and without giving any weightage to the comparative merit and ability of the shortlisted candidates.

41. The learned counsel had further submitted that the procedure of voting is an unusual practice for selecting a candidate for the post of the Principal of the college. Such a procedure had been followed only with the clear intention of favouring the appellant, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012. Dr. S. Perumal, the nominee of the Madurai Kamaraj University, who had protested against the arbitrary method of selection, had not been allowed to vote. Rt. Rev. J. Devakadatcham, who had chaired the meeting of the Governing Council, on the withdrawal of the Bishop-President, did not cast his vote. Thus, out of the eight votes, that had been cast, the appellant had secured six votes and the writ petitioner had secured two votes. The unusual and unfair practice adopted by the Governing Council to select the candidate, by way of voting, has created a genuine doubt in the mind of the writ petitioner that the entire process of selection was only an eyewash and that it had been followed only for the purpose of favouring the appellant.

42. The learned counsel had further submitted that there was a clear bias in the process of the selection of the candidate for being appointed as the Principal of the college, as the selected candidate, the appellant in the present writ appeals in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, namely, Dr. M. Dhavamani Christoher and his father-in-law, namely, Rt. Rev. Dr. A. Christopher Asir, had also participated in the selection of process, from its beginning. The Governing Council of the college, in its meeting, held on 12.12.2010, had decided to appoint the search committee for selecting the candidate to fill up the post of the Principal of the college. In the said meeting Dr. M. Dhavamani Christoher, the appellant in the present writ appeals, in W.A. (MD) Nos. 965 of 2012 and 966 of 2012, had also participated in the capacity of the Bursar of the college. Rt. Rev. Christopher Asir had also participated in the said meeting to appoint the search committee, as the Bishop-President. The appellant, in W.A. (MD) No. 965 of 2012 and W.A. (MD) No. 966 of 2012, namely, Dr. M. Dhavamani Christoher, had full knowledge of the fact that he would be a candidate for the post of the Principal of the college, even at the time when the meeting of the Governing Council had been held for appointing a search committee to shortlist the candidates for being considered for the appointment to the post of the Principal of the college. As such, it would not have been appropriate for the appellant to have participated in the meeting of the Governing Council, held on 12.12.2010. Further, the participation of Rt. Rev. Christopher Asir in the said meeting of the Governing Council was also improper and arbitrary, as it has created a bias in favour of the appellant.

43. The learned counsel for the writ petitioner had further submitted that Rt. Rev. Christopher Asir, the father-in-law of the appellant had nominated himself as the Chairman of the search committee and the appellant had also participated in the meeting in appointing the members of the search committee. They had, together, managed to nominate their own men, namely, Daniel Ezhillarasu (AIACHE nominee to the council) and C. Fernades Rathnaraja, (Bishop's nominee from Madurai-Ramnad Diocese to the Council) as the members of the Sub-Committee to control and influence the selection process. Thus, it is clear that the constitution of the search committee itself is void in the eye of law.

44. It had been further submitted that Rt. Rev. Christopher Asir, as the Chairman of the search committee had called for the applications from the eligible candidates, for the post of the Principal, vide advertisement, dated 7.2.2011, in the daily newspaper "The Hindu". As per the said advertisement, the application had to be submitted to the Chairman, search committee, by a registered post, on or before 21.2.2011. The appellant had applied for the post of the Principal within the time specified. The Chairman of the search committee had received the application submitted by his son-in-law, the appellant herein. However, he had not disclosed the same to the Governing Council, nor had he taken any efforts to appoint another search committee till the Finalisation of the shortlisted candidates, which had been completed, on 28.10.2011. On the other hand, Rt. Rev. Christopher Asir and his son-in-law, namely, Dr. M. Dhavamani Christoher, had participated in all the subsequent Governing Council meetings, without revealing the fact that the appellant had applied for the post of the Principal of the college. Thus, it could be clearly seen that there was an act of collusion in the selection of the appellant, as the Principal of the college.

45. The learned counsel had further submitted that, on 20.10.2011, Rt. Rev. Christopher Asir, had requested all the applicants, including the appellant herein, as the Chairman of the search committee, to appear before the selection committee, on 28.10.2011, at the office of Diocesan. Even though Rt. Rev. Christopher Asir had known that his son-in-law, the appellant herein, is one of the candidates, who had applied for the post of the Principal of the college, he had not taken any efforts to withdraw himself from the search committee and to intimate the same to the Governing Council. Instead, he had called his son-in-law, the appellant herein, to attend the interview, on 28.10.2011, and thereafter, he had personally appointed Rt. Rev. G. Devakadatcham, as the new Chairman of the search committee, arbitrarily, without taking up the matter with the Governing Council, as required under the relevant bye-laws.

46. The learned counsel had further submitted that, though it has been recorded that Rt. Rev. Christopher Asir, the Bishop-President, the Governing Council of the college, and the appellant herein, had refrained from voting, their participation in the entire process of selection, till the Governing Council had decided to elect the Principal through the process of voting, had completely vitiated the selection process.

47. The learned counsel had further submitted that the Ph. D. degree obtained by the appellant, in W.A. (MD) Nos. 965 of 2012 and 966 of 2012, from the Alagappa University, in Education, cannot be considered to be relevant to the post of the Principal of the college. Therefore, the selection and appointment of the appellant is contrary to the University Grants Commission Regulations 2010, and the approval granted by the Madurai Kamaraj University is also illegal and void.

48. The learned counsel had further submitted that the selection and appointment of the appellant, as the Principal and Secretary of the college, is tainted with bias. Further, the appellant does not possess the necessary educational qualifications for being selected and appointed as the Principal and Secretary of the said college, as he only possess a Ph. D. degree in Education, which cannot be said to be a Ph. D. degree in the concerned/allied or relevant disciplines in the institution concerned.

49. The learned counsel had further submitted that it is clear from the records available that Rt. Rev. Dr. A. Christopher Asir, the father-in-law of the appellant, was involved as the Chairman of the Selection Committee, which had shortlisted the names of the appellant and the writ petitioner for being considered for the post of the Principal and Secretary of the college.

50. The learned counsel had further submitted that the appellant was the member of the Governing Council, when the issue relating to the selection and appointment to the post of the Principal of the college was being considered. The final selection of the candidate for the said post had been made, by way of voting, which is an unusual process followed by the Governing Council of the college. Instead, the Governing Council of the college ought to have selected the candidate for the post of the Principal and Secretary of the college, purely on the basis of the comparative merits and the credentials of the candidates concerned. Thus, it is clear that the appellant, who is not fully qualified for being considered for the post of the Principal and Secretary of the American college, had been selected and appointed in the said post, due to the undue influence and the bias shown in favour of the appellant and therefore, the selection and appointment of the appellant, as the Principal of the college, had rightly been set aside by the learned single Judge, by his order, dated 15.10.2012, made in W.P. (MD) Nos. 2556 and 9361 of 2012.

51. The learned counsel had further submitted that the appellant did not possess the basic qualifications for being selected as the Principal of the college, as he did not possess a Ph. D. degree in the concerned/allied/relevant disciplines in the institution concerned, as prescribed by the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of the Standard in Higher Education) Regulations 2010. The process of selection followed in the appointment of the appellant was based on Regulations of the University Grants Commission of the year 2000, which had been superseded by the University

Grants Commission Regulations of the year 2010. As such, the selection process based on the Regulations of the University Grants Commission of the year 2000, cannot be held to be valid in the eye of law. Further, the proceedings of the Alagappa University granting the Ph. D. degree certificate to the appellant, in Doctor of Philosophy in Education (Inter disciplinary) had been withdrawn by the proceedings, dated 4.10.2012, and a revised Ph. D. degree certificate had been issued granting him the Ph. D. degree in "Education". Thus, it is clear that the appellant does not possess the qualification for being selected and appointed as the Principal of the college. As such, the common order passed by the learned single Judge, dated 15.10.2012, made in W.P. (MD) Nos. 2556 and 9361 of 2012, is sustainable and valid in the eye of law and therefore, the present writ appeals filed by the appellants are liable to be dismissed.

52. The learned counsel appearing for the Madurai Kamaraj University had submitted that the appointment of the appellant had been based on the minutes of the Governing Council of the said college, dated 28.10.2011. Pursuant to the said appointment of the appellant as the Principal and Secretary of the college, Dr. R. Mohan, who was the acting Principal of the said college, had handed over charge of the post to the appellant, on the same day. Thereafter, the appellant had been functioning as the Principal and Secretary of the said college.

53. The learned counsel had further stated that the procedures followed in the selection and appointment of the appellant, as the Principal and Secretary of the college, was fair and proper and therefore, there was no impediment for the approval being granted, with regard to the qualification of the appellant for such appointment. By a communication dated 29.6.2012, the Madurai Kamaraj University had intimated that the Educational qualification of the appellant, who had been appointed as the Principal of the college, had been approved and recognised by the Syndicate of the said University, in its meeting held on 2.6.2012, with effect from 28.10.2011.

54. No counter affidavit had been filed on behalf of the other respondents, including the University Grants Commission, New Delhi.

55. The learned counsels appearing on behalf of the other respondents in the present writ appeals had not raised any serious contentions with regard to the issues arising for the consideration of this Court in the present writ appeals.

56. The learned counsel for the appellant had relied on the following decisions in support of his contentions:

56.1. In Javid Rasool Bhat and Others Vs. State of Jammu and Kashmir and Others, , the Supreme Court had held that it is not within the province or even the competence of the Courts to lay down hard and fast rules regarding the selection procedure. The Court would not venture into such exclusive thickets to discover ways out, when the matters are more appropriately left to the wise expertise of medical academicians and public administrators. Courts interfere when the risk of arbitrariness is so high that arbitrariness is inevitable.

In the absence of mala fides, it would not be right to set aside the selection merely because one of the candidates happened to be related to a member of the Selection Committee, who had abstained from participating in the interview of that candidate.

56.2. In *Madan Lal and Others Vs. State of Jammu and Kashmir and Others*, the Supreme Court had held as follows:

9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Upto this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the concerned Members of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of *Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others*, , it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

10. Therefore, "the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a Court of appeal and try to reassess the relative merits of the candidates concerned who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst others consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are certainly not acting as a Court of appeal over the assessment made by such an expert committee.

21. It is difficult to appreciate how only because Respondent 13 was the daughter of the Chairman and daughter-in-law of another Member of the

Commission, both of whom disassociated themselves from the selection process as she was competing, can be said to be disqualified from being considered for selection only on the ground of her relationship with the Members concerned of the Commission. The learned senior counsel for the petitioners fairly submitted that relatives of Members simpliciter are not disqualified but his contention was that other Members of the Commission are also bureaucrats and would be having liking and soft corner for each other. They may therefore try to push up the relative of the Chairman by inflating her marks at the oral test. Such a contention, to say the least, is totally outside the scope of the present proceedings. As we have noted earlier, it is not alleged by the petitioners that the Members of the Interview Committee were biased either against the petitioners or in favour of any given candidate. In the absence of such pleading of bias and mala fides, such a hypothetical contention, only based on the result of the oral interview cannot be sustained. It is also to be kept in view that there is one salient feature of the case which contraindicates this contention. As noted earlier, there were 11 vacancies of Munsif's for which the selection process was started by the Commission as recommended by the State of Jammu and Kashmir. So far as respondent 13 is concerned her rank in the merit list of open category candidates is at Sl. No. 14, in the light of the marks obtained by her. There are 13 candidates above her who have got more marks. Therefore, if 11 vacancies were to be filled in, respondent 13 would be left out. If what the petitioners contended was true and if the Members of the Commission were interested in seeing that anyhow she walks in for that purpose they were to inflate her marks, they would have resorted to inflating her marks to such an extent that she would clearly walk in the list of first 11 selected candidates. Consequently there is no substance in this contention of learned counsel for the petitioners. In this connection, we may also profitably recapitulate what is stated in para 2 of the affidavit-in-reply of Dr. Girija Dhar. She has clearly stated that as a matter of fact the particulars furnished by the candidates in their applications in pursuance of the advertisement only had been placed before the Members of the Interview Board. The results of the candidates at the written examination were not placed before the Members of the Interview Board. These averments could not be successfully challenged by the learned counsel for the petitioners. Consequently, it must be held that the Members of the Interview Committee were not knowing as to what marks were obtained by the candidates at the written test. Therefore, there would be no occasion for them to manipulate the marks of any candidate at the oral interview so as to bring them, in the light of the marks obtained by him in the written test, to a total which would make him eligible to be included in the select list of first 11 candidates as there were only 11 clear vacancies. Consequently, there is no substance even in this grievance of the petitioners.

57. The learned counsel appearing for the respondents had relied on the following decisions in support of his contentions:

57.1. In *The Secretary, Kamaraj College Vs. D.S. Arulmani, Reader and Head of Department of Tamil, Kamaraj College and Others*, a Division Bench of this Court

had held as follows:

43. It was contended on behalf of the appellants that the impugned Regulations could be construed only as recommendatory in nature and not as mandatory. However, we are unable to accept the said contention. In *Vidya Dhar Pande Vs. Vidyut Grih Siksha Samiti and Others*, it was held as follows:

8. The question whether a regulation framed under power conferred by the provisions of a Statute has got statutory power and whether an order made in breach of the said Regulation will be rendered illegal and invalid came up for consideration before the Constitution Bench in the case of *Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation*, . In this case, it was held that:

There is no substantial difference between a rule and a regulation inasmuch as both are subordinate legislation under powers conferred by the statute. A regulation framed under a statute applies uniform treatment to every one or to all members of some group or class. The Oil and Natural Gas Commission, the Life Insurance Corporation and Industrial Finance Corporation are all required by the statute to frame regulations inter alia for the purpose of the duties and conduct and conditions of service of officers and other employees. These regulations impose obligation on the statutory authorities. The statutory authorities cannot deviate from the conditions of service. Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violations of rules and regulations. The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employee a statutory status and impose restriction on the employer and the employee with no option to vary the conditions.

9. There is therefore, no escape from the conclusion that regulations have force of law. The order of the High Court must therefore be reversed on this point unhesitatingly.

Again in *Medical Council of India Vs. State of Karnataka and Others*, , it was held as follows:

24..... Regulations framed u/s 33 of the Medical Council Act with the previous sanction of the Central Government are statutory. These regulations are framed to carry out the purposes of the Medical Council Act and for various purposes mentioned in Section 33. If a regulation falls within the purposes referred u/s 33 of the Medical Council Act, it will have mandatory force. Regulations have been framed with reference to Clauses (fa), (fb) and (fc) (which have been introduced by the Amendment Act of 1993 w.e.f. 27.8.1992) and Clauses (j), (k) and (1) of Section 33.

In *St. Johns Teachers Training Institute Vs. Regional Director, National Council for Teacher Education and Another*, it was held as follows:

The main justification for delegated legislation is that the legislature being overburdened and the needs of the modern day society being complex it cannot possibly foresee every administrative difficulty that may arise after the Statute has begun to operate. Delegated legislation fills those needs. The Regulations made under power conferred by the Statute are supporting legislation and have the force and effect, if validly made, as the Act passed by the competent legislature. (see *Sukhdev Singh v. Bhagatram* (supra)).

The above view was reiterated in *Maharashtra University of Health Sciences represented by Deputy Registrar Vs. Paryani Mukesh Jawaharlal and Others*, on the following lines:

MCI has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. The regulations framed by the MCI with the previous sanction of the Central Government, in regard to any of the matters referred to in Section 33 of the Indian Medical Council Act, 1956, will have statutory force and are mandatory. Universities must necessarily be guided by the MCI Regulations. Any regulations made by the Universities which are inconsistent with the MCI Regulations, or which dilute the criteria laid down by MCI will not be valid to the extent of inconsistency or dilution.

Therefore, the impugned Regulations have statutory force and the Universities as well as the Colleges affiliated to the Universities are obliged to follow the same.

57.2. In *The Association of Managements Private Colleges Vs. The Government of Tamil Nadu and another*, this Court had held as follows:

12. The learned Additional Advocate General appearing for the respondents relying on the scheme issued by the University Grants Commission has submitted that they have to implement the said scheme in view of the Central Act, namely, University Grants Commission Act, 1956. He has also relied on the decision in *University of Delhi Vs. Raj Singh and others*, in support of the said submission. In the said decision, the Apex Court has dealt with the obligation of the Delhi University to follow the University Grants Commission's Regulations. While dealing with the same, the Apex Court has held that the University has to follow the said regulations which were notified in the Gazette. There cannot be any dispute about the said proposition, in view of the provisions of the University Grants Commission Act, 1956. If the University fails to comply with the recommendations of the Commission, u/s 14 of the University Grants Commission Act, the Commission may withhold from the University the grants proposed to be made out of the fund of the Commission. But it cannot be said that the same can be implemented on any method which is not approved in law. It cannot also be said that the said scheme has to be followed irrespective of the Act and the Rules made under the Tamil Nadu Private Colleges (Regulation Act and the Rules thereunder. The said scheme has to be implemented in accordance

with law and after following the procedures known to law. The Universities can regulate or frame rules u/s 15 of the Tamil Nadu Private Colleges (Regulation) Act. When the said Act specifically gives power only to the University to contemplate the qualifications, the University can make regulations to implement the scheme and the Government cannot by issuing an administrative order usurp the power of the University to whom the legislature has given power to specify qualifications for appointment of teachers.

57.3. In *Ayaaubkhan Noorkhan Pathan Vs. The State of Maharashtra and Others*, , the Supreme Court had reiterated its earlier decisions made in *Ghulam Qadir Vs. Special Tribunal and Others*, , wherein this Court having considered a similar issue, had observed as under:

There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article. The orthodox rule of interpretation regarding the locus standi of a person to reach the Court has undergone a sea change with the development of constitutional law in our country and the constitutional Courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hyper-technical grounds. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi

57.4. In *S.N. College Vs. N. Raveendran* , it has been held as follows:

We may indicate it is entirely for the State Government and the University authorities to regulate their affairs and face the consequences of non-compliance with the U.G.C. Regulations, as held by the Apex Court, which we have extracted herein before. We may also indicate since necessary amendments have not been incorporated in the University statutes it cannot be held that the management of affiliated colleges are bound to follow the same. They are governed by the University Act and Statutes. In this connection we may also refer to the decision of the Division Bench of this Court in *Joykutti v. State of Kerala*, 2000 (3) KLT SN P. 32 wherein this Court held that U.G.C. Scheme does not become applicable because of any statutory mandate making it obligatory for the Government and the University to follow the same. It is for the State Government and University Authorities to take steps to carry out necessary amendments in the University Act and Statutes and issue orders accordingly. Since the qualifications prescribed by the U.G.C. were not incorporated in the Statutes the Tribunal was not justified in holding that the selection conducted by the Management on the basis of the existing provisions of the University Act and Statutes is bad in law.

57.5. In W.P. No. 24966 of 2011, dated 20.2.2012, this Court had held as follows:

11. It may however be noticed that the learned counsel for the petitioner has placed reliance on the judgment of this Court in Dr. S. Arulmani Vs. Government of Tamil Nadu and Others, , wherein this Court was pleased to lay down as under:

31. The constitution of selection committee is referable to Regulation 3.5. of the UGC regulations. The very same regulation relating to the constitution of the committee is reproduced in the impugned order. Though the Government order was issued in exercise of power under Article 162 for the purpose of extending the benefit of revision of pay scales, insofar as the qualification for the post of principal and constitution of committee was incorporated in the said order as per the statutory regulations of the UGC. Regulations made u/s 26 of the Act has statutory force. The Apex Court in the judgment in University of Delhi Vs. Raj Singh and others, has held that UHC was the competent authority to prescribe the educational qualifications that are ordinarily required to the post of a Lecturer including the principal and such regulations shall statutory force.

32. So far as the educational qualification prescribed by regulations framed by UGC, there cannot be any dispute that the college should abide by the minimum qualification while selecting the candidate of the post of principal. In fact, in the impugned order, the eligibility norms notified by the College is in tune with the minimum educational qualifications prescribed in the regulations framed by UGC.

58. In view of the submissions made by the learned counsels appearing for the appellants, as well as the respondents, and on a perusal of the records available, and on considering the decisions cited supra, we are of the view that the selection and appointment of the appellant, namely, Dr. M. Dhavamani Christoher, as the Principal and Secretary of the college, was fair and proper.

59. It is seen that the shortlisting of the candidates, namely, Dr. M. Dhavamani Christoher, the appellant in the present writ appeals, in W.A. (MD) Nos. 965 and 966 of 2012 and the writ petitioner, in W.P. (MD) Nos. 2556 and 9361 of 2012, namely, Dr. S. David Amirtha Rajan, had been done, for the post of the Principal of the American College, Madurai, by the search committee appointed by the Governing Council of the college. Based on the proceedings of the Governing Council of the college, dated 28.10.2011, the appellant had been appointed as the Principal and Secretary of the college. Thereafter, the qualification of the appellant for such appointment had also been approved by the Madurai Kamaraj University. However, the appointment of Dr. M. Dhavamani Christoher, as the Principal and Secretary of the college, had been challenged by the writ petitioner in the writ petitions, in W.P. (MD) Nos. 2556 and 9361 of 2012, the first respondent in the above writ appeals.

60. By a common order, dated 15.10.2012, the learned single Judge, who had heard the writ petitions, had set aside the appointment of the appellant, as the Principal and Secretary of the college, mainly on the ground of bias in the selection process. He had further held that this Court, while exercising its judicial

review, has the power and the authority to examine the selection process followed by an aided minority institution in appointing its Principal and Secretary. Thus, it had been held that the actual selection process followed in the selection and appointment of the appellant, as the Principal and Secretary of the college, was biased in nature and that the approval granted by the Madurai Kamaraj University, regarding the qualification of the appellant was also bad in law.

61. The learned single Judge, in his order, dated 15.10.2012, had noted that Rt. Rev. Christopher Asir, the father-in-law of the appellant, was the Chairman of the search committee, which had shortlisted the candidates for being considered for the post of the Principal and Secretary of the college. The selection was not based on the marks awarded by the search committee in a written examinations, but by way of voting, by the Governing Council of the college. Since, the appellant, namely, Dr. M. Dhavamani Christoher, was a member of the Governing Council and as his father-in-law, namely, Rt. Rev. Christopher Asir, was the Chairman of the search committee, the selection process had been biased. Therefore, the selection and appointment of Dr. M. Dhavamani Christoher, as the Principal and Secretary of the college, cannot be sustained in the eye of law.

62. However, from the records available, it is clear that Rt. Rev. Christopher Asir, the Chairman of the search committee, had recused himself from the selection process, after he had known that Dr. M. Dhavamani Christoher, his son-in-law, the appellant in the writ appeals, in W.A. (MD) Nos. 965 and 966 of 2012, was also a candidate for the post of the Principal and Secretary of the college. It is also noted that the appellant had also recused himself from further participation in the selection process, at the relevant point of time.

63. Further, the appellant and the writ petitioner were the two candidates shortlisted by the search committee, for being considered for the post of the Principal and Secretary of the college. The writ petitioner had not challenged the said process, until it had attained its finality, by the appointment of the appellant to the said post, by the impugned proceedings, dated 28.10.2011. As such, it could be held that the writ petitioner had acquiesced to the said process. Therefore, it would not be open to him to raise the issue relating to bias, after he had been left out of the race, at the final stage.

64. It is also not in dispute that the American college, Madurai, is an aided minority institution, protected by the provisions of Article 30 of the Constitution of India and that it has right to administer its own affairs. The concept of bias cannot be applied in a strict sense, with all its nuances and subtle variations or with all its rigour and rigidity, in its application to the selection process relating to an aided minority institution, protected under the provisions of Article 30 of the Constitution of India.

65. It is also noted that the final selection of the candidate for the post of the Principal of the college was by way of voting, by secret ballot. Such a process cannot be said to be arbitrary or illegal, even if it is found to be unusual, to some

extent. Once it is found that the candidates, who had been shortlisted for the final selection, are possessing the basic qualifications for being considered for the post of the Principal and Secretary of the college concerned, it is for the Governing Council of the said college to formulate its own reasonable method and the procedures to be followed in selecting the appropriate candidate, fit to be appointed to the post of the Principal and Secretary of the said college. As such, we are not convinced with the contentions raised on behalf of the writ petitioner that the process and selection of the appellant, namely, Dr. M. Dhavamani Christober, as the Principal and Secretary of the college, is arbitrary, biased and invalid in the eye of law. As such, the process of selection of the candidate, for the post of Principal and Secretary of the college, cannot be said to be biased, as observed by the learned single Judge of this Court.

66. The learned single Judge had observed that the said Regulations had been superseded by the University Grants Commission Regulations of the year 2010, which prescribes that the candidate concerned should possess a Ph. D. degree in the concerned/allied/relevant disciplines in the institution concerned. The learned Judge had also held that all the educational institutions concerned would be bound by the Regulations of the University Grants Commission of the year 2010. Even if some of the institutions had not adopted the same, such regulations would be of a binding nature. Accordingly, the appellant should be possessing a Ph. D. degree, as prescribed in the University Grants Commission Regulations of the year 2010, for being considered for the post of the Principal and Secretary of the college. However, the Ph. D. degree obtained by him, in Education, would not qualify him for being considered for the said post. The learned single Judge had also observed that it is for the Madurai Kamaraj University and the other experts in the field of education to decide as to whether the appellant was possessing the necessary educational qualifications for being appointed as the Principal and Secretary of the college, based on the University Grants Commission Regulations of the year 2010. However, the observations made by the learned single Judge, in his order, dated 15.10.2012, cannot be sustained, as there is no clear and proper explanation made available by the University Grants Commission, with regard to the words "concerned/allied/relevant disciplines in the institution concerned," found in the University Grants Commission Regulations of the year 2010. It is also not in dispute that Dr. M. Dhavamani Christober possesses the necessary qualifications to be considered for being appointed as the Principal of the college, as per the University Grants Commission Regulations of the year 2000.

67. In such circumstances, this Court finds it appropriate to leave open the issue relating to the interpretation of the meaning, the scope and the applicability of the words "concerned/allied/relevant disciplines in the Institution concerned", found in the University Grants Commission Regulations of the year 2010, to the basic educational qualifications possessed by the appellant, for being considered for the post of the Principal and Secretary of the college, to the Madurai Kamaraj University, and to arrive at its decision, in consultation with the University Grants

Commission, New Delhi. The said process shall be completed by the Madurai Kamaraj University, within a period of three months from the date of receipt of a copy of this order. Till such time a final decision is taken by the Madurai Kamaraj University, with regard to the basic educational qualifications possessed by the appellant, namely, Dr. M. Dhavamani Christoher, as per the University Grants Commission Regulations of the year 2010, for being considered for appointment to the post of the Principal and Secretary of the American college, Madurai, he shall continue to function as its Principal, based on the proceedings of the Governing Council of the college, dated 28.10.2011. Thereafter, it would be open to the Madurai Kamaraj University to pass appropriate orders, afresh, with regard to the appointment of the appellant, as the Principal and Secretary of the college, in accordance with law. In the result, the Writ Appeals are partly allowed in the following terms:

(a) The common order of the learned single Judge, dated 15.10.2012, made in W.P. (MD). Nos. 2556 and 9361 of 2012, is set aside.

(b) The order of approval passed by the Madurai Kamaraj University, dated 2.6.2012, approving the educational qualification of the appellant, namely, Dr. M. Dhavamani Christoher, is set aside and the matter is remitted back to the Madurai Kamaraj University to reconsider the issue, as per the observations/directions issued herein above.

(c) The appointment of the appellant, namely, Dr. M. Dhavamani Christoher, as the Principal and Secretary of the American College, Madurai, by the Governing Council of the College stands confirmed, subject to the final decision to be taken by the Madurai Kamaraj University, with regard to his educational qualifications, as per the observations/directions issued herein above.

However, there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.