

(2022) 11 OHC CK 0236

In the Orissa High Court

Case No : Writ Petition (C) No. 11732 of 2019

Dr. Manoj Kumar Ghosal

APPELLANT

Vs

Orissa University Of Agriculture And Technology (OUAT),
Bhubaneswar And Others

RESPONDENT

Date of Decision : 28-11-2022

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 227
Orissa University of Agriculture and Technology Act, 1965 — Section 3(1)(i), 6(1),
6(2), 7(1)

Citation : (2022) 11 OHC CK 0236

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : Jayant Rath, Pabitra M. Pattajoshi, Sanjeev Udgata

Final Decision : Allowed

Judgement

S.K. Sahoo, J

1. The petitioner Dr. Manoj Kumar Ghosal has knocked at the portals of this Court by filing this writ petition with a prayer to quash the impugned notification dated 19.08.2019 under Annexure-9 issued by the Odisha University of Agriculture and Technology (OUAT), Bhubaneswar (hereafter 'opposite party no.1 University') with a further prayer to appoint him in the post of Dean of Students Welfare, OUAT as per his selection by the Standing Selection Committee (opposite party no.4) pursuant to the circular dated 26.04.2018 under Annexure-2.

2. It is the case of the petitioner that the opposite party no.1 University is a body corporate established under the Odisha University of Agriculture of Technology Act, 1965 (hereafter 'OUAT Act') imparting agriculture related education and research and is funded by the Government of Odisha. The opposite parties nos.2 to 4 are the Officers of the University. After completing M.Tech (Agricultural Engineering) from IIT, Kharagpur and Ph.D. from IIT, Delhi, the petitioner joined

the opposite party no.1 University on 30.04.1990 as Research Assistant (Agricultural Engineering) and he was promoted to the post of Assistant Professor on 22.01.1991 and thereafter to the post of Associate Professor on 22.01.2004 and finally, he was working as Professor in the University since 22.01.2010 and now he is the Professor in the Department of Farm Machinery and Power, College of Agricultural Engineering and Technology under the opposite party no.1 University.

It is the further case of the petitioner that the post of Dean of Students Welfare in the opposite party no.1 University fell vacant sometime during April, 2018 and the said post being a very important post in the administration and management of discipline among the students, on 26.04.2018 a circular was issued for filing up of the said post and the following eligibility and qualification for appointment to the said post was specified in the advertisement:

- (i) The Dean, Students Welfare shall be selected from amongst the Professors of the University or the persons of equivalent rank having experience as such for a minimum period of five years in the concerned faculty; and
- (ii) The Dean, Students Welfare shall be a person trained in students' welfare activities who would be able to shoulder the duties and responsibilities prescribed in the Act and Statutes.

Similar eligibility and qualification criteria have also been prescribed under the OUAT Act and Statute 8A of the OUAT Statutes, 1966 for appointment to the post of Dean of Students Welfare.

It is the further case of the petitioner that since 2010, he was working as Professor in the opposite party no.1 University and that he had completed about nine years as such and that he was also involved in the following students' welfare activities in the University:-

- (i) Working as Superintendent of Boys' Hostel of OUAT (Krupasindhu Hostel) from June 2016 till date.
- (ii) Worked as Assistant Superintendent of Kharvela Hostel (Hostel No.6) from 2008-2010 and Superintendent from March, 2010 to January, 2011.
- (iii) Working as NSS Programme Officer to look after the NSS activities of College of Agricultural Engineering and Technology, OUAT, Bhubaneswar from 2005 till date.
- (iv) Working as the Vice President of the Athletic Society of the College of Agricultural Engineering and Technology from 2004-2008.
- (v) Worked as member anti-ragging squad of the College of Agricultural Engineering and Technology from 2004 till date.
- (vi) Organizing NSS Special Camp (two times).
- (vii) Accompanying two study-tours with UG students.

It is the further case of the petitioner that in addition to his rich experience in the students' welfare activities, he had also good research and academic contributions in the agricultural and allied subjects. The petitioner having fulfilled all other criteria prescribed in the Statute as well as the circular, applied for the post of Dean of Students Welfare pursuant to the circular under Annexure-2 by making proper application along with other requisite documents.

It is the further case of the petitioner that the opposite party no.1 University constituted a Screening Committee under the Chairmanship of Dr. P.K. Roul, Dean, Extension Education, OUAT vide office order dated 22.06.2018 in order to scrutinize the applications received pursuant to the aforesaid circular under Annexure-2, inter alia, for filling up of the post of Dean of Students Welfare. The applications of the petitioner and others received for the said post were scrutinized by the Screening Committee in its meeting held on 23.08.2018 and upon such scrutinization, the Screening Committee observed that the petitioner along with six other candidates are eligible to be considered for the said post.

It is the further case of the petitioner that Statute 3 of the OUAT Statutes, inter alia, prescribed the manner of appointment of Officers of the University which includes the Dean of Students Welfare. As per the said Statute, there shall be a Standing Selection Committee under the Chairmanship of the Vice-Chancellor of the University, inter alia, to deal with appointment of Officers of the University including the Dean of Students Welfare. In terms of the said Statute, the opposite party no.4 Standing Selection Committee issued notice dated 01.09.2018 to the petitioner to attend the meeting of the Committee on 05.09.2018 along with the original certificates and mark sheets as well as list of research publications etc. and as per the schedule, the petitioner attended the meeting of the Standing Selection Committee on 05.09.2018 and produced all the required documents and also made power point presentation.

It is the further case of the petitioner that he came to know from reliable sources that the Standing Selection Committee after considering the qualification and criteria of all the eligible candidates and upon interview, selected him to be appointed as the Dean of Students Welfare in OUAT and accordingly, the same was placed before the opposite party no.2 Chancellor for appointment. At that time, the opposite party no.2 wanted to know from the opposite party no.3 Vice-Chancellor who is also the Chairman of the Standing Selection Committee whether a certain type of experience was considered while assessing the candidates for selection and appointment as Dean of Students Welfare which are essentially required for the post, to which the opposite party no.3 clarified that the Selection Committee had taken into account the same and reiterated selection of the petitioner and in spite of such reiteration, the result of the selection process was not published.

It is the further case of the petitioner that after having appeared before the Standing Selection Committee on 05.09.2018, the petitioner waited for the result of the selection process and since no result was published, he vide letters dated

17.12.2018 and 09.03.2019 drew the attention of the opposite party no.2 requesting him to look into the matter for declaration of the result. In the meantime, the petitioner through one of his acquaintance made an application under the RTI Act seeking various information relating to the selection process for the post of Dean of Students Welfare pursuant to the circular under Annexure-2, but the Public Information Officer of the University vide letter dated 16.01.2019 only provided information relating to the list of eligible applicants and candidates appeared in the viva voce examination and the Public Information Officer in reply to the information relating to recommendation of the Selection Committee and the result of the selection process has stated that the same had not been declared.

It is the further case of the petitioner that under the OUAT Statute, it is the Standing Selection Committee who is to deal with the appointment of its Officers including the Dean of Students Welfare and after the said Selection Committee upon proper scrutiny, verification and interview selects a person to be appointed to the said post, the opposite party no.2 has no jurisdiction either to sit over such recommendation or reject the same. It is the further case of the petitioner that the Standing Selection Committee pursuant to the circular and interview, has recommended the name of the petitioner for being appointed as Dean of Students Welfare and notwithstanding such recommendation by statutorily constituted Standing Selection Committee following due process of law, the opposite party no.2 is sitting over the matter. According to the petitioner, the appointing authority i.e. opposite party no.2 ought not to have illegally and arbitrarily sat over the recommendation of the duly constituted Selection Committee.

It is the further case of the petitioner that while the matter stood thus and more than one and half years from the date of circular dated 26.04.2018 was passed, the opposite party no.1 vide notification dated 19.08.2019 under Annexure-9 cancelled the selection process and asked to conduct fresh selection to the post of Dean of Students Welfare, OUAT and the said notification has been issued by the Registrar, OUAT by the order of opposite party no.3. In the said notification, it is further stated that the decision to cancel the selection process has been taken pursuant to the letter of the Special Secretary to the Chancellor opposite party no.2 dated 09.07.2019.

It is the further case of the petitioner that since the petitioner has already been selected to the advertised post, he had a right to be considered for appointment and the opposite party no.1 ought not to have ignored the select panel by cancelling the selection process after one and half years from the date of advertisement and the opposite parties by virtue of the impugned notification dated 19.08.2019 has declined to make the appointment on its whims particularly when there is a vacancy which can be offered to the petitioner keeping in view his selection and therefore, there was no justifiable reason on the part of the opposite party no.1 to cancel the selection process by declining to

appoint the petitioner who had already been selected and as such, the impugned notification dated 19.08.2019 under Annexure-9 should be quashed as grossly unfair, arbitrary and not bonafide.

3. This Court issued notice to the opposite parties and observed vide order dated 21.10.2019 in I.A. No.13728 of 2019 that as an interim measure, any selection/appointment to the post of Dean of Students Welfare pursuant to the circular dated 24.09.2019 (annexed as Annexure-D/4 to the counter affidavit filed on behalf of opposite party no.2) shall abide by the result of the writ petition.

4. The opposite parties nos.1 and 3 have filed their joint counter affidavit indicating therein that the petitioner was promoted to the rank of Professor under Career Advancement Scheme since 22.01.2010 and that his involvement in students related activities is not disputed. The Standing Selection Committee after taking interview of all candidates, including the petitioner sent its recommendation in sealed cover to the office of the Chancellor and after verification of the result sheet, certain points of objection were raised by the office of the Chancellor and communicated vide letter dated 17.09.2018 and the proceedings of the Standing Selection Committee were returned back vide letter dated 03.01.2019 with instruction to reconvene the selection committee and to reassess all the candidates as per observation of the Chancellor. It is further stated that since reconvening of the same selection committee to reassess the same candidates afresh would not have been appropriate, as per observation of the Vice Chancellor, clearance was sought for from the office of the Chancellor for starting the process afresh, with fresh notification and after obtaining clearance, process went on for fresh notification after cancelling the previous selection process vide impugned notification under Annexure-9 and after cancellation, fresh applications were invited from the eligible Professors vide circular dated 24.09.2019, with last date of application as 15.10.2019 at 5.00 p.m. It is further mentioned that the Chancellor has got no jurisdiction to reject the recommendation of the Standing Selection Committee. Section 6.1 of OUAT Act prescribes that the Dean of Students Welfare is an officer of the opposite party no.1 University. Section 6.2 of the said Act prescribes that the Officers of the University specified in Clause (ii) to (xi) of sub-section (1) shall be appointed by the Chancellor. The Governor shall be the Chancellor of OUAT as specified in the section 7(1) of OUAT Act and as per the provision of OUAT Act, Dean of Students Welfare is appointed by the Chancellor. Statute 3(1)(i) of OUAT Statute, 1966 states that in order to deal with appointments of officers, teachers and other employees, there shall be a Standing Selection Committee. As per Statute 3(1)(ii) of the said Statute and notification No.35639 dated 25.11.2004, the Standing Selection Committee for appointment of teachers and officers as enumerated in clauses (iv) to (xi) of sub-section (1) of section 6 of the OUAT Act are as follows:-

Standing Selection Committee:

(a) Vice-Chancellor ... Chairman

- (b) Two co-opted members to be nominated by the Vice-Chancellor in consultation with the State Government from among experts in the subject concerned the post for which recruitment is to be made;
- (c) The Secretary to Government, Agriculture Department or his nominee who should not be less than that of an Additional Secretary in the rank;
- (d) An Academician nominated by the Chancellor.

In view of the above provision of the OUAT Statute, selection of Dean of Student Welfare was conducted by Standing Selection Committee of OUAT and the selected candidate was to be appointed by the Chancellor of OUAT.

It is further stated in the counter affidavit that out of seven numbers of eligible candidates, six numbers of candidates appeared before the Standing Selection Committee held on 05.09.2018 which would be implied from the attendance sheet of the candidates under Annexure-6 and the name of the recommended candidates by the Standing Selection Committee for the post of Dean of Students Welfare was kept by the Standing Selection Committee in a sealed cover and the same was intimated to the office of the Chancellor vide letter dated 05.09.2018 of the Vice-Chancellor for appointment of the recommended candidate to the post of Dean of Students Welfare.

It is further stated in the counter affidavit that the Circular under Annexure-2 indicates that the University reserves right to cancel the interview or the entire process of selection if so required. Further, it is the appointing authority to decide whether appointment would be given to the selected candidate or not. As such, appearance of the petitioner before the selection committee for the post of Dean of Students Welfare did not confer him right to claim for appointment as such. In the meantime, the selection of Dean of Students Welfare held on 05.09.2018 was cancelled by the Chancellor vide letter dated 09.08.2019 and notified by OUAT vide notification dated 19.08.2019 under Annexure-9 and the selection process has started afresh.

It is further stated in the counter affidavit that the entire selection process for the post of Dean of Students Welfare held on 05.09.2018 was cancelled by the Chancellor, OUAT and the order of the Chancellor was communicated by the Special Secretary to the Chancellor vide letter No.10161/SG(HE) dated 09.08.2019 under Annexure-F/1 and as per order of the Chancellor, the selection process for the post of Dean, Students Welfare held on 05.09.2018 was cancelled through impugned notification under Annexure-9.

It is further stated in the counter affidavit that the appointing authority Chancellor has already cancelled the entire selection process and a fresh selection process has been started with an issue of circular no.15782 dated 24.09.2019, in inviting applications from the eligible candidates. It is also stated that in the Circular No.8120 dated 26.04.2018, it is mentioned that the University reserves right to cancel the interview or the entire process of selection

and appointment of Dean, Students Welfare is made by the Chancellor, not by the Registrar and the entire process of selection was cancelled by the appointing authority, the Chancellor and therefore, the petitioner's claim being devoid of merit, liable to be rejected.

5. Counter affidavit has also been filed on behalf of opposite party no.2, Chancellor, OUAT wherein it is stated that the petitioner did not satisfy the eligibility condition and that the opposite party no.2 was not bound by the recommendation of the Standing Selection Committee and the petitioner did not have indefeasible right to claim appointment to the post of Dean of Students Welfare, OUAT merely because the Standing Selection Committee recommended his name to such post.

It is further stated that the post of Dean of Students Welfare is a tenure post for three years. Under the OUAT Act and the Statute, the Dean of Students Welfare shall have the following duties and power:-

OUAT Act, 1965

"13.

(1) The Dean of Student Welfare shall be responsible to the Vice-Chancellor.

(2) The Dean of Student Welfare shall have the following duties, namely:-

(i) to make arrangements for the housing of students;

(ii) to direct a programme of student counseling;

(iii) to arrange for the employment of students in accordance with plans approved by the Vice-Chancellor;

(iv) to supervise the extra-curricular activities and needs of students;

(v) to assist the graduates, who leave the University in procuring employment;

(vi) to organize and maintain contact with the Alumni of the University; and

(vii) to perform such other duties as may be assigned to him by the Board or the Vice-Chancellor. OUAT Statutes, 1966

9.(1) In addition to the duties conferred upon the Dean of Student Welfare by or under the Act, he shall have the following powers and duties namely:-

Administrative Powers:

(a) He shall:-

(i) Be responsible to the Vice-Chancellor in the exercise of powers and discharge of duties contained under the Act or these Statutes;

(ii) Take steps to promote employment of the students within the various services of the University wherever such employment is beneficial to students

and in the best interest of the University programmes involved;

(iii) Formulate the rules for the control of housing and hostel for students including the selection and appointment of Wardens, supervision over the masses and control of sanitary arrangements and similar facilities;

(iv) Plan and direct, in co-ordination with other University Officers, all non-curricular activities for students including clubs, recreations centers, co-operatives, etc., as may from time to time approved by the University for the welfare of the students;

(v) Co-operate with the staff in charge of Physical Education Programmes, National Cadet Corps activities and related activities of students as required by the University;

(vi) Allot residential accommodation to students;

(vii) Make arrangements for scholarships, stipends, part-time employments and other such student assistance;

(viii) Communicate with the guardians of students concerning the welfare of the students;

(ix) Deal, in consultation with the Dean of the Faculty concerned, with the student indiscipline, excessive absenteeism and other students irregularities from point of view of maintenance of discipline and act as Ex-Officio Chairman of the Committee on Student Discipline;

(x) Supervise health programme and medical facilities for students;

(xi) Explore the possibilities of finding suitable employment for Graduates and arrange their interview with prospective employers;

(xii) Sanction all kinds of leave of the University employees working under him.

It is further stated in the counter affidavit that the opposite party no.1 by order of the opposite party no.3 issued circular dated 26.04.2018 in inviting applications for the post of Dean, Students Welfare and the essential qualification and experience prescribed for the post as on the last date of application i.e. 19th May 2018, would be considered and the University reserved the right to cancel the interview or entire process of selection or might not conduct the interview if so required. It is further stated that the opposite party no.3 by letter dated 05.09.2018 sent amongst others, the recommendation of the candidates by the Standing Selection Committee for perusal and order of appointment by the opposite party no.2. It is further stated that while perusing the recommendation of the candidates made by the Standing Selection Committee for the post of Dean of Students Welfare, OUAT, the opposite party no.2 observed that while assessing the candidates, the Standing Selection Committee had not taken into consideration their respective training and experience necessary for the post of Dean of Student Welfare, an essential condition in the statute and the circular

issued inviting application for the said post and the said eligibility criteria relates to soft skill management of students outside the class room which has a reasonable, relevant and rational nexus with the duties and responsibilities to be shouldered by the appointee as prescribed in the OUAT Act and the Statute for the post of Dean of Student Welfare and therefore, the opposite party no.2 returned the recommendation of Selection Committee dated 05.09.2018 to the opposite party no.3 to look into the said aspect while selecting the candidate for the post of Dean of Students Welfare, OUAT, a matter connected with the smooth administration of the University.

It is further stated that the opposite party no.3 thereafter resubmitted the said recommendation without any fresh meeting of selection committee and without devising any parameter of soft skill for making a realistic assessment of the suitability of a candidate to become Dean of Students Welfare, OUAT as per provisions prescribed in OUAT Act, 1964 and the Statute made thereunder. The opposite party no.3 was requested to convene the same selection committee to assess the suitability of all the candidates and to resubmit the final assessment for appropriate decision of the opposite party no.2. The opposite party no.1 by letter dated 11.06.2019 intimated that when the file was placed before the opposite party no.3, the latter observed that compliance with all the observation made by the opposite party no.2 could be viable, if a fresh selection of Dean of Student Welfare is made and requested for cancellation of previous selection process and thereafter, the selection process for the post of Dean of Student Welfare held on 05.09.2018 pursuant to circular under Annexure-2 was cancelled by the opposite party no.2 on the basis of observation made by the opposite party no.3 and the same was communicated to the opposite party no.3 by letter dated 09.08.2019 and pursuant to the aforesaid cancellation, the OUAT issued fresh circular dated 24.09.2019 under Annexure-D/4 inviting application for the post of Dean of Student Welfare. It is further stated that the person whose name finds place in the select panel has no vested right to get appointment in the said post in spite of vacancy existing and in this case, the decision of the authority to cancel the selection process and to hold a fresh selection was taken in a bonafide way for appropriate reasons.

It is further stated in the counter affidavit that the petitioner was not prejudiced in any manner inasmuch as he had already applied for the post of Dean of Student Welfare, OUAT pursuant to aforesaid circular dated 24.09.2019 (Annexure-D/4) issued by the OUAT and that the petitioner has no cause of action to file the writ petition and therefore, the same should be dismissed.

6. The petitioner filed a rejoinder affidavit to the counters filed by opposite parties nos.1 and 3 and counter filed by opposite party no.2 wherein it is mentioned that the opposite parties in their counter affidavits while justifying the impugned cancellation of the notification dated 26.04.2018 for selection of Dean, Students Welfare, OUAT wherein the petitioner was selected, have alleged certain new facts and have suppressed certain material facts. It is further stated that the

opposite parties while admitting about recommendation of the name of the petitioner as the selected candidate by the duly constituted Selection Committee pursuant to the Circular for appointment dated 26.04.2018, have stated that such recommendation was returned back with some observations by the opposite party no.2 to the opposite party no.3 being the Chairman of the Selection Committee and was instructed to re-convene the Selection Committee for assessing all the candidates as per the observation. However, the opposite party No.3 thought it fit to go for a fresh selection in order to comply the observations made by the Chancellor and hence the selection process pursuant to Circular dated 26.04.2018 was cancelled vide notification under Annexure-9 with the concurrence of the Chancellor and new Circular for fresh selection was issued.

It is further stated in the rejoinder affidavit that the Standing Selection Committee after conclusion of the selection process pursuant to the circular dated 26.04.2018 (Annexure-2) found the petitioner as the most suitable candidate for appointment to the post of Dean, Students Welfare, OUAT and accordingly, recommended the name of the petitioner vide letter dated 05.09.2018 along with the result sheet to the opposite party no.2 being the appointing authority for appointment. The Chancellor pursuant to such recommendation by the Selection Committee, has observed that the Selection Committee has not taken into consideration the respective training and experience necessary for the post of Dean, Student Welfare which is an essential condition in the statute and the circular invited for the post. It is further alleged that the said eligibility criteria relates to soft skill management of students outside the classroom. Observing the same, the Chancellor returned the recommendation to the opposite party no.3 to look into the said aspect.

It is further stated in the rejoinder affidavit that the petitioner has learnt from the reliable sources that the Chancellor vide its letter dated 17.09.2018 has observed that the Selection Committee has not taken into consideration the experience as Hostel Superintendent or Student Advisor etc. while assessing the candidate. In the said letter dated 17.09.2018, the Chancellor has observed that these experiences relates to soft skill of managing students outside the classroom. The opposite party no.3 being the Chairman of the Selection Committee vide his letter dated 06.11.2018 categorically replied that the Selection Committee while assessing the candidates has taken into consideration the experience as Hostel Superintendant and the Student Advisor as observed by the Chancellor. It is further stated that the Vice-Chancellor has clarified that such assessment has been made as per the biodata submitted and presentation made by the candidates in the interview and has further elaborated the experience of the recommended candidate outside the classroom meeting to the observation of the Chancellor. By so clarifying, the Vice-Chancellor (Chairman of Selection Committee)/opposite party No.3 once again placed the recommendation before the Chancellor for necessary appointment. It is further stated that all the observations made by the Chancellor in his letter dated 17.09.2018 has been duly complied with and observed by the Vice-Chancellor.

It is further stated in the rejoinder affidavit that as observed by the Chancellor, the experience as Hostel Superintendent or Students Advisor etc. relates to soft skill management of students outside the classroom and the Vice-Chancellor clarified that the selection committee considered all such experiences of the selected candidate (petitioner) as well as such experience of other candidates and upon such consideration, the recommendation was made.

It is further stated in the rejoinder affidavit that the statute 3(1)(v) of the OUAT Statute stipulates that the Dean of Students Welfare shall be a person trained in students welfare activities, who would be able to shoulder the duties and responsibilities prescribed in the Act and Statutes. Such stipulation in the Statute has also been stated in "Eligibility and Qualification" condition of the circular for appointment apart from the other requirement of minimum five years of experience as Professor of the University. Except this, neither the Act or the Statute nor the Circular for appointment in question stipulate any other eligibility condition or qualification criteria for appointment to the post in question. Further, nowhere the OUAT Act, 1965 or the OUAT Statute or for that matter the circular for appointment stipulate any parameter for assessing such soft skill management of the candidates. Notwithstanding the same, the observation of the opposite party no.2 regarding experience as Hostel Superintendent or Student Advisor of the candidates which relates to soft skill management of students outside classroom has been considered by the Selection Committee and upon such consideration, the petitioner has been selected and duly recommended. The observations of Chancellor with respect to the recommendation by the Selection Committee having been duly complied with, the authorities ought not to have dumped the whole selection process by merely stating that fresh selection was necessary to comply with the observations of the Chancellor.

It is further stated in the rejoinder affidavit that the reason of dumping the whole selection process by the opposite parties pursuant to the circular dated 26.04.2018 amounts to introducing a wholly new criteria of selection after the circular for the appointment was issued and the Selection Committee made its recommendation and that such course of action is impermissible under law. The so-called parameter for soft skill management as stated in the counter affidavit of the opposite parties has nowhere been prescribed in the Act or the Statute or for that matter in the circular for appointment. Considering the same, the Chancellor has observed only regarding the experience as Hostel Superintendent or Student Advisor etc. for assessing the soft skill management and this observation has been duly taken care of by the Selection Committee and as such the opposite parties for no good reason and acting mechanically and arbitrarily have thrown out the selection process pursuant to circular dated 26.04.2018 and as such the same is illegal and deserves to be set aside.

It is further stated in the rejoinder affidavit that the Chancellor in his letter dated 03.01.2019, requested the Vice-Chancellor to re-convene the same Selection

Committee to assess all the candidates as per his observations. Notwithstanding the same, the Vice-Chancellor for no good reasons and going beyond the mandate of the Chancellor decided to go for fresh selection without considering the exercise already made by the Selection Committee following a rigorous process of selection and therefore, the impugned cancellation of selection process is without any rational and legal basis but merely at the whims and caprices of the authorities.

It is further stated in the rejoinder affidavit that the appointing authority has ignored the recommendation of the statutorily constituted Selection Committee for no good reasons. The Selection Committee through its chairman has duly complied with the observations made by the Chancellor, yet the recommendation has been illegally ignored. Such action of ignoring the select panel by the appointing authority on its whims is unsustainable in the eyes of law.

It is further stated in the rejoinder affidavit that introducing a fresh criteria of appointment to a post after the selection panel has been drawn is against the basic tenets of law. After the petitioner was duly selected and his name being recommended by the Selection Committee, the authorities on the plea of assessing the candidates on a new criteria alien to the Statute as well as the Circular for appointment, cancelled the selection process and therefore, the impugned cancellation is illegal.

It is further stated in the rejoinder affidavit that the statutory provisions governing the impugned appointment would show that all the criterias and qualification as prescribed therein were duly complied with while selecting and recommending the name of the petitioner for being appointed to the post in question. Further, the Standing Selection Committee which recommended the name of the petitioner for being selected comprised of an academican nominated by the opposite party no.2 and as such all the concerns of the Chancellor has been considered by the Selection Committee.

It is further stated in the rejoinder affidavit that the right of the opposite party no.1 University to cancel the interview or the selection process or the right of the appointing authority to decide must be exercised fairly and not merely at their whims. The University as well as the appointing authority is obliged under law to assign good reasons for ignoring the recommendation of the statutorily constituted Selection Committee.

It is further stated in the rejoinder affidavit that the petitioner having been found to have fulfilled all the eligibility condition, was selected and recommended by the statutorily constituted Selection Committee in which one of the members was the nominee of the opposite party no.2 and that apart, at no point of time, the opposite party no.2 in any of his communication raised such allegation regarding non-fulfillment of eligibility condition by the petitioner.

7. Mr. Jayant Rath, learned Senior Advocate appearing for the petitioner submitted that the Standing Selection Committee was constituted strictly in

accordance with the provisions of the Statute of OUAT. After the decision was taken by the Selection Committee, the name of the petitioner was recommended to the office of the Chancellor for his appointment as Dean of Students Welfare which was made by the Vice-Chancellor, the Chairman of the Selection Committee, inter alia, comprising of two expert members i.e. Chancellor's nominee and Government's nominee. After receipt of such recommendation, without due application of mind, the Principal Secretary of the Chancellor wrote a letter to the Vice-Chancellor on 17.09.2018 that the Selection Committee has not taken into consideration the experience as Hostel Superintendent or students' advisor etc. while assessing the candidates for selection and appointment to the post of Dean of Students Welfare which is an essential condition in the Statute and the circular issued and the said eligibility criteria relates to soft skill of managing students outside the class room which has got a reasonable, relevant and rational nexus with the duties and responsibilities to be shouldered by the appointee and that the Chancellor desired that these experiences of the candidates should be looked into while selecting the candidates for such post. The Vice-Chancellor immediately replied that all relevant facts regarding selection have been taken into account and recommendation of the petitioner's name was made. The experience of the petitioner outside the classroom as per his biodata, meeting the requirement was also indicated. Without whispering anything about the contents of the communication made, the Additional Secretary of the Chancellor's Office requested the Vice-Chancellor to reconvene the meeting of the very same Standing Selection Committee to reconsider its decision. It is urged by the learned counsel that when all the aspects were taken care of by the Selection Committee while selecting and recommending the name of the petitioner for appointment as Dean of Students Welfare, the Vice-Chancellor illegally and without assigning any valid reason, communicated to the Chancellor's Office suggesting to have a fresh selection by constituting a selection committee afresh and referring to such communication, the Special Secretary to the Chancellor communicated that the Chancellor has been pleased to cancel the selection and recommendation and passed the order to initiate fresh selection process complying all observations of the Chancellor communicated earlier to the University. Learned counsel argued that issuance of the impugned notification is the outcome of complete non-application of mind to the materials on record. According to him, the selection of the duly constituted Selection Committee cannot be cancelled as a matter of course, thereby reducing the selection process as farce. There was no valid reason for the same and the actions of the opposite parties are not legal but whimsical and therefore, the impugned order is not sustainable in the eyes of law and should be quashed and the opposite party no.2 should be directed to appoint the petitioner as the Dean of Student Welfare of OUAT. In support of such contention, Mr. Rath placed reliance in the cases of R.S. Mittal -Vrs.- Union of India reported in 1995 Supp (2) Supreme Court Cases 230, A.P. Aggarwal -Vrs.- Govt. of NCT of Delhi and another reported in (2000) 1 Supreme Court Cases 600 and Asha Kaul (Mrs.) and another -Vrs.- State of Jammu and Kashmir and others reported in (1993) 2

Supreme Court Cases 573.

8. Mr. Pabitra Mohan Pattajoshi, learned counsel appearing for the opposite parties nos.1 and 3 reiterated the stand taken in the counter affidavit and submitted that when after verification of the result sheet, certain points of objection were raised by the office of the Chancellor and the proceedings of the Standing Selection Committee were returned back with instruction to reconvene the selection committee and to reassess all the candidates as per observation of the Chancellor, since reconvening of the same selection committee to reassess the same candidates afresh would not have been appropriate, therefore, clearance was sought for from the office of the Chancellor for starting the process afresh with fresh notification and after obtaining clearance, process went on for fresh notification after cancelling the previous selection process.

9. Mr. Sanjeev Udgata, learned counsel appearing for the opposite party no.2, Chancellor, OUAT contended that neither the opposite party no.2 was bound by the recommendation of the Standing Selection Committee nor the petitioner has got any indefeasible right to claim appointment to the post of Dean of Students Welfare on the basis of recommendation of his name by the Committee to such post. He argued that when the opposite party no.2 after perusing the recommendation of the name of the petitioner made by the Committee observed that while assessing the candidates, the Committee had not taken into consideration their respective training and experience necessary for the post of Dean of Students Welfare and the eligibility criteria relates to soft skill management of students outside the class room, therefore, the opposite party no.2 was quite justified in returning the recommendation of selection committee to the opposite party no.3 to look into the said aspect while selecting the candidate for such post which was a matter connected with the smooth administration of the University. The training and experience necessary for the post of Dean of Students Welfare is an essential condition in the statute and the circular issued inviting applications for the said post and it has got a reasonable, relevant and rational nexus with the duties and responsibilities to be shouldered by the appointee and therefore, it cannot be ignored or sidelined. It is argued that the decision of the authority to cancel the selection process and to hold a fresh selection having been taken in a bonafide way for the best interest of the institution, it cannot be said there is any illegality or perversity in the same or that the petitioner was prejudiced in any manner and therefore, the writ petition should be dismissed. The learned counsel for the opposite party no.2 placed reliance in the cases of Director, SCTI for Medical Science & Technology and another -Vrs.- M. Pushkaran reported in (2008) 1 Supreme Court Cases 448, Sasmita Manjari Das -Vrs.- State of Orissa and others reported in 2015 (II) Indian Law Reports -Cut- 827, J. & K. Public Service Commission, etc. -Vrs.- Dr. Narinder Mohan and others etc. etc. reported in A.I.R. 1994 Supreme Court 1808, Lakhwinder Singh -Vrs.- Union of India and others reported in (2008) 7 Supreme Court Cases 648, Dr. H. Mukherjee -Vrs.- Union of India and others reported in A.I.R. 1994 Supreme Court 495 and Sr. Divisional Retail Sales

Manager and others -Vrs.- Ashok Shankarlal Gwalani reported in 2013 (II) Orissa Law Reviews (SC) 31.

10. Adverting to the contentions raised by the learned Counsel for the parties and on perusal of the records, following are the main issues, which arise for consideration in the present writ petition:-

(i) Whether this Court, in exercise of jurisdiction under Article 226 of the Constitution of India can quash impugned notification dated 19.08.2019 under Annexure-9 and direct the petitioner to be appointed to the post of Dean of Students Welfare?

(ii) Whether the appointing authority is empowered to interfere with the decision/recommendation of Standing Selection Committee? If so, on what ground(s)?

(iii) Whether the impugned notification under Annexure-9 cancelling selection process for the post of Dean, Students Welfare as per the circular dated 26.04.2018 (Annexure-2) is valid and legal?

(iv) Whether the initiation of fresh process of selection and the consequential issuance of circular dated 24.09.2019 under Annexure-D/4 issued by the opposite party no.1 are valid and legal?

Discussion on issue no.(i) :

Scope and ambit of Article 226 of the Constitution of India:

11. Law is well settled that in exercising jurisdiction under Article 226 of the Constitution of India, this Court has the power to issue a writ of certiorari only when there is a failure of justice and it cannot be issued merely because it may be legally permissible to do so. It is obligatory on the part of the petitioner to show that a jurisdictional error has been committed by the statutory authority. There must be an error apparent on the face of the record as the High Court acts merely in a supervisory capacity and not as the appellate authority. An error apparent on the face of the records means an error which strikes one on mere looking and does not need long drawn out process of reasoning on points where there may conceivably be two opinions. Such error should not require any extraneous matters to show its incorrectness. Such errors may include giving reasons that are bad in law or inconsistent, unintelligible or inadequate. It may also include the application of a wrong legal test to the facts found, taking irrelevant consideration into account and failing to take relevant consideration into account, and wrongful admission or exclusion of evidence as well as arriving at a conclusion without any supporting evidence. Such a writ can also be issued when there is an error in jurisdiction or authority whose order is to be reviewed has acted without jurisdiction or in excess of its jurisdiction or has failed to exercise the jurisdiction vested in him by law. (Ref:- Harbans Lal -Vrs.- Jagmohan Saran : A.I.R. 1986 S.C. 302; Municipal Council, Sujampur -Vrs.- Surinder Kumar : (2006) 5 Supreme Court Cases 173; Sarabjit Rick Singh -Vrs.- Union of India : (2008) 2 Supreme Court Cases 417; Assistant Commissioner,

Income Tax, Rajkot -Vrs.- Saurashtra Kutch Stock Exchange Limited : (2008) 14 Supreme Court Cases 171, Sant Lal Gupta and Ors. -Vrs.- Modern Co-operative Group Housing Society Ltd. and Ors. : (2010) 13 Supreme Court Cases 336).

Similarly this Court is empowered under Article 226 of the Constitution of India to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the government or a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or a rule or a policy decision of the government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case, this Court, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the Government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the Court may itself pass an order or give directions which the government or the public authority should have passed or given had it properly and lawfully exercised its discretion. (Ref:- CAG -Vrs.- K.S. Jagannathan : (1986) 2 Supreme Court Cases 679).

Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the recommendations, or proved mala fides affecting the recommendations etc. Jurisdictional review is permissible only to the extent of finding whether the process in reaching the decision has been observed correctly and not the decision as such. The evaluation made by an expert committee should not be easily interfered with by the Courts which do not have the necessary expertise to undertake the exercise that is necessary for such purpose. This Court cannot sit as an appellate authority to examine the recommendations of the Selection Committee like the Court of appeal. The discretion to make recommendation has to be given to the Selection Committee alone and the Courts rarely sit in appeal to examine the selection of the candidates nor is it the business of the Court to examine each candidate and record its opinion. Moreover, it is settled that the function of the Selection Committee is neither judicial nor adjudicatory, it is purely administrative.

Discussion on issue no.(ii) :

Power of appointing authority to interfere with the decision/recommendation of selection Committee:-

12. Whenever a duly constituted selection committee utilizing the services of

experts makes a recommendation of a name for a post, it shall not be disturbed by the appointing authority unless there is any procedural irregularity or violation of any norm prescribed under the relevant rules or illegality in

making such selection. If the appointing authority has unfettered powers to do as it likes, there is no need for framing the rules or following a prescribed procedure in this type of matters. The entire exercise done by the Selection Committee cannot be treated as a futile exercise by giving them an impression that their opinion would not be given due weight and regard. If there are sufficient reasons for rejecting the recommendation made by the selection committee like choosing a less meritorious candidate or a candidate with any stigma or punishments and if such recommendation is not made with due diligence and care, certainly the appointing authority has every right to interfere in such matters and issue directions either to correct such mistakes or to recommend the names of suitable candidates.

Discussion on issue nos.(iii) & (iv) :

Whether the cancellation of selection process for the post of Dean, Students Welfare and initiation of fresh process of selection with consequential issuance of circular by the opposite party no.1 are valid and legal?

13. OUAT is an educational institution which is dedicated to agriculture related research, extension services and education in agricultural science and technology. The post of the Dean of Students Welfare is a respectable and responsible post of such institution. Therefore, in making selection of a candidate for such important post, every care has to be taken to maintain transparency and to identify the best among the applicants. It seems that after a rigorous process of exercise made by the Selection Committee, out of the six eligible candidates, the petitioner was found to be the most suitable candidate for appointment to the post of Dean, Students Welfare and accordingly, his name was recommended for the post. It should not be forgotten that the Standing Selection Committee for appointment of such post comprised of Vice-Chancellor (opposite party no.3) as the Chairman of the Selection Committee, two co-opted members nominated by the Vice-Chancellor in consultation with the State Govt. who acted as experts who were none else than two Vice-Chancellors of two different Agriculture Universities, State Government's nominee who in this case was Commissioner - cum- Secretary, Department of Agriculture and Farmer's Empowerment and also Chancellor's nominee.

When there is recommendation by such a high level body, due weight has to be given for such recommendation, except under exceptional and compelling circumstances. In the normal circumstances, the recommendation has to be approved without interference. If there are any extraordinary circumstances compelling the appointing authority to come to a different opinion, it has to assign cogent reasons that made it not to accept the recommendation made by the Standing Selection Committee. Keeping such an important post vacant in an

institution of higher learning for years together leads to the disruption in the administration and discipline of students and fall of standards. Whenever there is recommendation, the appointing authority is expected to expedite such matters by clearing such files on priority basis.

At this stage, it would be worthwhile to discuss few citations placed by the learned counsel for the respective parties.

(i) In the case of Dr. Narinder Mohan (supra), the Hon'ble Supreme Court has been pleased to hold that once statutory rules have been made, the appointment shall be only in accordance with the rules. In the case of Sasmita Manjari Das (supra), it is held that if any condition is stipulated in the advertisement, it is to be strictly followed by the authority and in no case, it would be deviated.

In the case in hand, eligibility and qualification criteria have been prescribed under the OUAT Act and the OUAT Statutes for appointment to the post of Dean of Students Welfare. In the circular under Annexure-2, it has been laid down that the Dean of Students Welfare shall be selected from amongst the Professors of the University or the persons of equivalent rank having experience as such for a minimum period of five years. He shall be a person trained in students' welfare activities who would be able to shoulder the duties and responsibilities prescribed in the OUAT Act and the OUAT Statutes. Thus the conditions stipulated under the OUAT Act and the OUAT Statutes so also in the circular under Annexure-2 were to be strictly followed by the authority in the appointment to the post of Dean of Students Welfare. The post has to be filled up as per the statutory rules and in conformity with the constitutional mandate.

(ii) In the case of Lakhwinder Singh (supra), the Hon'ble Supreme Court held that the suggestions of Special Selection Board in the matter of promotion are only recommendatory in nature and it can be varied or interfered with by the appointing authority. In the case of Dr. H. Mukherjee (supra), the Hon'ble Supreme Court held that the function of the Public Service Commission being advisory, the Government may for valid reasons to be recorded on the file, disapprove of the advice or recommendation tendered by the Commission, which decision can, if at all, be tested on the limited ground of it being thoroughly arbitrary, mala fide or capricious.

Thus, the selection and recommendation of the name of the petitioner for the post of Dean of Students Welfare made by the Opposite party no.4 under the chairmanship of opposite party no.3 to the opposite party no.2 can be disapproved, inter alia, on the ground of arbitrariness.

(iii) In the case of State of Orissa -Vrs.- Rajkishore Nanda reported in (2010) 6 Supreme Court Cases 777, it is held that a person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and that by itself does not amount to selection or create a vested right to be appointed. Similar view has been taken in the case of Kulwinder Pal Singh and Ors. -Vrs.-

State of Punjab reported in (2016) 6 Supreme Court Cases 532.

In the case of R.S. Mittal (supra), it is held as follows:-

"10. It is no doubt correct that a person on the select panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment.

But at the same time, the appointing authority cannot ignore the select panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment..."

In the case of A.P. Aggarwal (supra), the Hon'ble Supreme Court held as follows:-

"11...It is not therefore open to the Government to ignore the panel which was already approved and accepted by it and resort to a fresh selection process without giving any proper reason for resorting to the same. It is not the case of the Government at any stage that the appellant is not fit to occupy the post. No attempt was made before the Tribunal or before this Court to place any valid reason for ignoring the appellant and launching a fresh process of selection.

12. It is well settled that every State action, in order to survive, must not be susceptible to the vice of arbitrariness which is the crux of Article 14 of the Constitution and basic to the rule of law, the system which governs us (vide Shreelkha Vidyarthi -Vrs.- State of U.P. : A.I.R. 1991 S.C. 537)."

In the case of Asha Kaul (Mrs.) (supra), it is held that it does not confer an absolute power upon the Government to disapprove or cancel the select list sent by the public service commission. Where, however, the Government is satisfied, after due enquiry that the selection has been vitiated either on account of violation of fundamental procedural requirement or is vitiated by consideration of corruption, favouritism or nepotism, it can refuse to approve the select list. It is true that mere inclusion in the select list does not confer upon the candidates included therein an indefeasible right to appointment, but that is only one aspect of the matter. The other aspect is the obligation of the Government to act fairly. The whole exercise cannot be reduced to a farce. Having sent a requisition/request to the Commission to select a particular number of candidates for a particular category, in pursuance of which the Commission issues a notification, holds a written test, conducts interviews, prepares a select list and then communicates to the Government, the Government cannot quietly and without good and valid reasons nullify the whole exercise and tell the candidates when they complain that they have no legal right to appointment.

A vested right in the matter of appointment will not accrue if there are valid reasons. It is true that a person selected, on account of being empanelled alone, does not acquire any indefeasible right of appointment, however, there is a legitimate expectation on the State not to act unfairly or arbitrarily. If without

any valid reasons, a completed selection process is cancelled and an entire new selection process is taken up, it would reflect lack of bonafide and probably of malafide against the selected candidates.

In the case of Director, SCTI for Medical Science & Technology (supra), it is held as follows:-

"11....Only because the name of a person appears in the select list, the same by itself may not be a ground for offering him an appointment. A person in the select list does not have any legal right in this behalf. The selectees do not have any legal right of appointment subject, inter alia, to bona fide action on the part of the State.

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16. It is, therefore, evident that the selectee as such has no legal right and the superior court in exercise of its power of judicial review would not ordinarily direct issuance of any writ in absence of any pleading and proof of mala fide or arbitrariness on the part of the employer. Each case, therefore, must be considered on its own merit.

In the case of Ashok Shankarlal Gwalani (supra), the Hon'ble Supreme Court held as follows:-

"17. Generally, if an irregularity is detected in the matter of selection or preparation of a panel, it is desirable to have a fresh selection instead of re-arranging the panel which is found to be vitiated. The authority empowered to appoint, is the competent authority to decide as to whether the panel should be discarded and there should be a fresh selection.."

It is true that the petitioner did not acquire any indefeasible right of appointment merely because of recommendation of his name to the post of Dean of Students welfare, but in absence of violation of fundamental procedural requirement or that he is not fit to occupy the post, refusal to approve the select list recommended by the Selection Committee constituted of such a high level body reflects lack of bonafide rather the decision dehors sufficient reasons shows non-application of mind and smacks of arbitrariness and therefore, it becomes vulnerable. The legitimate expectation of the petitioner on the opposite parties not to act unfairly has been frustrated.

14. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. The object of any process of selection for an important post is to secure the best and the most suitable person for the job. Criteria for selection cannot be changed during the course of selection arbitrarily. There is no dispute that as appointing authority, the Chancellor (opposite party no.2) has every jurisdiction to examine as to whether a Selection Committee had been properly constituted and as to whether a

selection had been properly made or not. The opposite party no.3 being the Chairman of the Selection Committee replied to the desire of the opposite party no.2 to look into the experience of the candidates as Hostel Superintendent or Students Advisor, that the Selection Committee while assessing the candidates, has taken into consideration the experience as Hostel Superintendant and the Students Advisor and that such assessment has been made as per the biodata submitted and presentation made by the candidates in the interview and has further elaborated the experience of the recommended candidate (petitioner) outside the classroom. When the opposite party No.3 once again placed the recommendation before the opposite party no.2 for review and reconsideration and making necessary appointment and all the observations made by the Chancellor in his letter dated 17.09.2018 has been duly complied with and observed by the Vice-Chancellor who clarified that the selection committee considered all such experiences of the selected candidate (petitioner) as well as such experience of other candidates and upon such consideration, the recommendation was made, in such an event, the order of the opposite party no.2 in not approving the recommendation of the Selection Committee and asking the opposite party no.3 as to whether a fresh meeting of Selection Committee was held or not to consider the fresh recommendation and whether the OUAT has devised any parameters of soft skills for assessing suitability of a teacher to become the Dean of Students Welfare and whether all the applicants were assessed against those parameters and ultimately directing the opposite party no.3 to start fresh process of selection is leading to a conclusion that it is an arbitrary action much detrimental to the interest of the institute leading to delay in reaching finality in the matter. When the opposite party no.3 replied to the desire of the opposite party no.2 as above, there could be no earthly reason to deviate from the recommendation made in favour of the petitioner. Mr. Rath, learned Senior Advocate, is right, in his submission, that nowhere the OUAT Act, 1965 or the OUAT Statutes or for that matter the circular for appointment stipulate any parameter for assessing such soft skill management of the candidates. It seems that the Selection committee, inter alia, has taken into account the vast experience of the petitioner in working as Superintendent of Boys' Hostel of OUAT, (Krupasindhu Hostel), Assistant Superintendent and Superintendent of Kharvela Hostel (Hostel No.6) for different period, working as NSS Programme Officer to look after the NSS activities of OUAT, working as the Vice President of the Athletic Society of the College of Agricultural Engineering and Technology, working as member anti-ragging squad of the College of Agricultural Engineering and Technology, organizing NSS Special Camp (two times) and accompanying two study-tours with UG students. Therefore, there were sufficient materials before the Selection Committee that among all the eligible candidates, the petitioner is best trained in student welfare activities, who would be able to shoulder the duties and responsibilities prescribed in the OUAT Act, 1965 or the OUAT Statutes and accordingly the recommendation of his name was quite justified. Thus the action of the opposite parties in ignoring the recommendation of the name of the petitioner and cancelling the selection

process is unfair, unreasonable, arbitrary and patently violative of Article 14 of the Constitution of India. The consequential issuance of fresh circular inviting applications for the post of Dean, Students Welfare, OUAT is also not sustainable in the eye of law.

15. In view of the foregoing discussions and in the facts and circumstances of the case, I am of the humble view that the impugned notification dated 19.08.2019 under Annexure-9 cancelling selection process for the post of Dean, Students Welfare as per the circular dated 26.04.2018 (Annexure-2) so also initiation of fresh process of selection and the consequential issuance of circular dated 24.09.2019 by the Registrar, OUAT (opposite party no.1) under Annexure-D/4 are without any valid reason and the same is arbitrary and unconstitutional and hereby quashed. I direct the opposite parties to take immediate steps in appointing the petitioner as Dean of Students Welfare, OUAT as he was duly selected by the Standing Selection Committee (opposite party no.4) and as nothing has been brought out against him on record.

Accordingly, the writ petition is allowed. No costs.

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