

(2022) 06 SHI CK 0071

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition (Original Application) No. 4373 Of 2019

Dr. Sanjeev Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 23-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 142, 309

Citation : (2022) 06 SHI CK 0071

Hon'ble Judges : Tarlok Singh Chauhan, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Sanjeev Bhushan, Rakesh Chauhan, Ashok Sharma, Vinod Thakur, Bhupinder Thakur, Rajiv Jiwan, Prashant Sharma, Surender Verma, Ranjana Parmar, Rashmi Parmar, Vikas Rajput

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J

1. The instant petition has been filed for grant of the following substantive reliefs:

1. That directions may very kindly be issued directing the respondent No.1 to strictly adhere to University Grant Commission Regulations, 2018 as well as State Regulations, 2012 and further by directing the respondents not to make any appointment by way of promotion or direct recruitment of any incumbent who does not possess a PHD degree.

2. That respondents may very kindly be directed not to make any promotion may be adhoc or officiating and further not to make any appointment by way of direct recruitment to the post of principal college cadre of any person who does not hold a PHD degree in the interest of law and justice.

3. That appropriate writ, order or direction may very kindly be issued and the notification dated 27th February 2020 i.e. Himachal Pradesh Higher Education Department, Principal (College Cadre), Class-I (Gazetted) Recruitment and

Promotion Rules, 2020 may very kindly be quashed and set aside and further directions may very kindly be issued to the respondents to strictly follow the Himachal Pradesh Higher Education Department (Minimum Qualification for Promotion of Teachers and other Equivalent Cadre and Librarians (College Cadre) of Government Degree Colleges, Government Sanskrit Colleges and other Measures for Maintenance of Standards) Regulations, 2012 as well as the UGC Regulations, 2010 as duly adopted by the State on 6th June, 2011 by further directing the State of Himachal Pradesh to make PHD a mandatory requirement for the post of Principal (College Cadre), in the interest of law and justice.

2 It is averred that all the petitioners are serving as Associate Professors in the colleges of State of Himachal Pradesh and possess Ph.D. degree, therefore, are fully eligible for promotion/appointment to the post of Principal (college cadre) as per State regulations and also University Grants Commission (UGC) regulations, as amended from time to time. It is averred that the respondents-State framed the Recruitment and Promotion Rules for the post of Principal (college cadre) vide notification dated 18.3.2014, wherein it was provided that the post of Principal (college cadre) would be filled up 75% by way of promotion and 25% by direct recruitment.

3 It is further averred that the UGC framed regulations in the year 2010 by repealing earlier regulations dated 4.4.2000. As per clause 4.2.0, of regulations 2010, the qualification as required for the appointment of Principal is that a candidate must possess a master's degree with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) by a recognized university and Ph.D degree along with experience/service of at least 15 years. However, these regulations were subsequently amended vide notification dated 18.7.2018 and in terms thereof, eligibility/ qualification for the post of Principal (college cadre) as provided vide clause 4.1 (v is Ph.D. degree with 15 years of experience as Professor/Associate Professor, minimum of 10 research publications and minimum of 110 research score as per appendix II, table 2 enclosed with the regulations.

4 Whereas in the rules framed by the State Government known as Himachal Pradesh Education Department, Principal College Cadre, (Class-I Gazetted) Recruitment and Promotion Rules, 2004, the qualification to the post of Principal (college cadre) is provided in clause 7, which reads as under:-

Minimum educational 1. Essential qualification:

qualification and other (i) A good academic record with at least qualifications required 55% marks or an equivalent of 55% for direct recruits. marks wherever the grading system is followed in master's degree level in the relevant subject from an Indian University or a foreign University recognized by the Government of India.

(ii) A candidate with Ph.D degree or its equivalent should have 15 years or regular teaching experience in the degree classes of Colleges affiliated to an

University.

OR

A candidate without Ph.D degree or its equivalent should have 20 years of regular teaching experience in the degree classes of colleges affiliated to an University.

(iii) 'B' in the 07-point scale with letter grades, O,A,B,C,D,E and F shall be regarded as equivalent of 55% wherever the grading system is followed. (7-point scale is displayed in the foot-note).

2. Desirable qualifications:

Knowledge of customs, manners and dialects of Himachal Pradesh and suitability for appointment in the peculiar conditions prevailing in the Pradesh.

5 After promulgation of regulations, a proviso was added vide notification 17.3.2012 and thereafter another proviso was added vide notification dated 19.5.2012.

6 According to these provisos, all the posts of Principal falling vacant after 1.1.2013 were required to be filled up on the basis of earlier regulations of 2012 and it was only the posts falling vacant prior to 1.1.2013 which were required to be filled up as per recruitment and promotion Rules dated 18.3.2014.

7 Aggrieved by the action of the respondents-State in promoting the non Ph.D. degree holders to the post of Principal, the petitioners have filed the instant petition for the reliefs, as quoted above.

8 The respondent-State has filed its reply, wherein it is averred that the respondent-State has notified Recruitment and Promotion Rules for the post of Principal (college cadre) vide notification dated 27.2.2020, whereas UGC guidelines were issued on 18.7.2018. It is claimed that the petitioners are trying to mislead the court by creating confusion between appointment and promotion to the post of Principal (College cadre). According to the respondent-State, there are two modes of filling up posts of Principal (college cadre) in the State i.e. one by direct recruitment and another by way of promotion from amongst the Assistant Professors/Associate Professors working in the government colleges of the State. The State Government has adopted academic performance indicator (API) and performance based appraisal system (PBAS) proforma as notified by the UGC in its regulation dated 30.6.2010 vide letter dated 6.6.2011 and accordingly issued notification dated 17.3.2012.

9 Para 3.0.0 of the said notification provides for recruitment and qualifications for direct recruitment, which is reproduced as under:-

3.0.0 RECRUITMENT AND QUALIFICATIONS.

3.1.0 The direct recruitment to the posts of Assistant Professors, College Principals, and College Librarian (UGC Scale) in Govt. Colleges of Himachal

Pradesh and Acharya and Pracharyas in Government Sanskrit Colleges of Himachal Pradesh shall be on the basis of merit through all India advertisement and selection by the HPPSC as per the provisions made and prescribed in the Recruitment and Promotion Rules for the concerned posts.

3.2.0 The minimum qualifications required for the post of Assistant Professors, College Principals, and College Librarian (UGC Scale) in Govt. Colleges of Himachal Pradesh and Acharya and Pracharyas in Government Sanskrit Colleges of Himachal Pradesh will be as prescribed under the notified R&P Rules of the teaching cadre and equivalent cadre in colleges, as well as modified by the State Government from time to time.

10 Paras 6.0.0 and 7.0.0 of the said notification provides for selection procedures for promotion to the post of Principal (college cadre). Para 7.0.7 whereof is reproduced as under:-

7.0.7. The process of selection of Principal (Colleges) shall involve inviting the bio-data with dully filled Performance Based Appraisal System (PBAS) Proforma developed by the Department of Higher Education for teachers in all Govt. Colleges, based on the API criteria based PBAS set out in this Regulation and reprints of five major publications of the candidates.

Provided that such publications submitted by the candidate shall have been published subsequent to the period from which the teacher was placed in the Assistant Professor stage-II.

11 According to the respondent-State, the UGC regulations and notifications only deal with cases pertaining to the appointment of Principals on direct basis, for which candidate must essentially possess Ph.D. degree, whereas in the State Rules, quota for these posts is merely 25%, whereas remaining 75% posts are to be filled on the basis of promotion, for which the respondent-State has been duly empowered and has in fact formulated its own Rules.

12 On 25.4.2022 this Court, after hearing the arguments, had reserved the judgment, however while dictating the judgment, it was found that the UGC, which had been arrayed as respondent No.2, had not filed its reply, which was absolutely necessary for the decision of the instant case. The case was fixed for rehearing and the UGC was called upon to file its reply.

13 In the counter-affidavit so filed by the UGC, it has been specifically stated that the requirement of Ph.D. degree is mandatory for appointment to the post of Principal (College Cadre), however it is not clarified as to whether such requirement is for direct recruitee or is virtually even to the promotee.

14 Accordingly, the UGC was directed to impart specific instructions in this regard and the case was thereafter listed on 2.6.2022 when the court proceeded to pass the following order:

"On 30.05.2022, this Court passed the following order:-

"Even though, UGC has filed its counter affidavit, wherein it has been specifically stated that the requirement of Ph.D is mandatory for appointment to the post of Principal (College Cadre). However, it is not clarified as to whether such requirement is only for direct recruits or even applicable in the case of the promotes. Let specific instructions in this regard be obtained before the next date of hearing. List for consideration on 02.06.2022. In the meanwhile, the respondent-State shall not make any promotion on the basis of relaxed qualification. Copy dasti.

2. In compliance to the aforesaid directions, learned counsel for the respondents has placed on record clarification, wherein it has been stated that UGC Regulations 2010/2018 on "Minimum Qualification for the Appointment of Teachers and High Court of H.P.other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education" the requirement of Ph.D qualification for the post of Principal is essential for Direct Recruitment.

3. It is further clarified that there is no specific criteria for promotion of Principal in the aforesaid regulations and the same is governed by clause 3.2, which is Self Explanatory & Mandatory in nature.

4. Confronted with this, learned counsel for the petitioner prays for an adjournment. Prayer allowed, as not opposed. List on 16.06.2022.

5. In such circumstances, the order dated 30.05.2022 is clarified to the extent that the State shall make promotion to the post of Principal (College Cadre) in accordance with law without there being any kind of relaxation whatsoever."

15 Evidently now, as per the stand taken by the respondent-State and clarification issued by the UGC, in the UGC Regulations, on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and other measures for the maintenance of standards in higher education, requirement of Ph.D. degree for the post of Principal is only for the direct recruits as there is no specific criteria for the post of Principal, on promotion basis, in these Regulations.

16 Learned senior counsel for the petitioners would argue that the stand now taken by the UGC is contrary to law as applicability of the UGC Regulations cannot be confined only to the post of Principal to be filled-up through direct recruitment and not through promotion. It is further contended that no distinction is to be made or is otherwise made in these Regulations regarding its applicability to the posts in question irrespective of whether the post is to be filled up through direct recruitment or on promotion.

17 In support of this submission, learned senior counsel for the petitioners has placed strong reliance on the judgment of the Full Bench of the Kerala High Court in Dr. D. Radhakrishnan Pillai vs. The Travancore Devaswom Board, 2016 Labour Industrial Cases 1584 to contend that irrespective of whether the University Acts

enacted under Entry

25 of the List III of the Constitution of India or the Statutes framed thereunder are amended in line with the UGC Regulations or not, in view of its adoption by the State Government, the Universities and affiliated colleges in State of Himachal Pradesh are bound to comply with the UGC Regulations, 2010 and other regulations issued subsequently, and, in particular, invited our attention to paras 14 and 17 of the judgment, which read as under:-

"14. According to us, this judgment cannot, in any manner, dilute the principles laid down in the aforesaid judgments for the reason that the State of Kerala itself has adopted the UGC Regulations vide WPC.29253/12 & con. cases Government Order dated 10.12.2010, which has been extracted in the earlier part of this judgment. Once the UGC Regulations were adopted by the State Government and implemented with effect from 18.9.2010, the Regulations are mandatorily to be complied with by the Universities in the State. It is also clarified that anything that is in conflict with the Central law and the subordinate legislation made thereunder, will be void and inoperative.

17. Therefore, irrespective of whether the University Acts enacted under Entry 25 of list III or the Statutes framed thereunder are amended in line with the UGC Regulations or not, in view of its adoption by the State of Kerala with effect from 18.9.2010 as per Government Order dated 10. 12.2010, the Universities and affiliated colleges in Kerala State are bound to comply with the UGC Regulations, 2010."

18 We are afraid that the reliance placed upon the aforesaid judgment of the Full Bench is totally misplaced as the facts therein were that the State of Kerala had, after issuance of UGC Regulations 2010, issued order dated 10.12.2010 approving and implementing the Regulations with effect from 18.9.2010, the date of publication of the Regulations in the Government of India gazette and the same finds mentioned in para 7 of the judgment, which reads as under: -

"7.We also find that on the issuance of the UGC Regulations, 2010, the Government of Kerala issued G.O(P). 392/10/H.Edn dated 10.12.2010 approving and implementing the Regulations with effect from 18.9.2010, the date of publication of the Regulations in the Government of India gazette and also ordering that amendments required will be made to the Acts of WPC.29253/12 & con. cases the Universities to implement the Regulations.

This Government Order being relevant reads thus:

GOVERNMENT OF KERALA

Abstract

HIGHER EDUCATION-UGC SCHEME-REVISION OF SCALE OF PAY OF TEACHERS OF UNIVERSITIES, AFFILIATED

COLLEGES, TEACHERS IN LAW COLLEGES

AND ENGINEERING COLLEGES AND KERALA

AGRICULTURAL UNIVERSITY AND TEACHERS IN PHYSICAL EDUCATION AND
QUALIFIED LIBRARIANS

ETC.-REGULATIONS OF UGC ON MINIMUM

QUALIFICATIONS FOR APPOINTMENT OF

TEACHERS AND OTHER ACADEMIC

STAFF IN UNIVERSITIES AND COLLEGES AND MEASURES

FOR THE MAINTENANCE OF STANDARDS IN

HIGHER EDUCATION 2010-REGULATIONS

APPROVED-ORDERS ISSUED

HIGHER EDUCATION (C) DEPARTMENT

G.O.(P).No.392/2010/H.Edn.

Dated,Thiruvananthapuram,10th December, 2010.

Read:- 1. G.O.(P) No.58/2010/H.Edn. Dated 27-3-2010

2. Letter No.F.No.I-2/2009(EC/PS)Pt. File -3 dated 23- 11-2010 from the UGC.

ORDER

Government vide order read as 1st paper above have issued orders implementing UGC pay revision of Teachers in Universities, Affiliated Colleges, Teachers in Law Colleges and Engineering Colleges and Kerala Agricultural University and Teachers in Physical Education and qualified Librarians etc.

2. Now, UGC vide letter read as 2nd paper above have furnished UGC regulations, 2010 on minimum qualifications for appointment of Teachers and other Academic Staff in Universities and Colleges and measures for the maintenance of standards in Higher Education.

WPC.29253/12 & con. cases

3. Government have examined the matter in detail and are pleased to approve and to implement the Regulations as such.

4. The Regulations shall come into force with effect from 18-9-2010, ie., the date of publication of the Regulations in the Government of India Gazette.

5. All the Universities shall incorporate the UGC Regulations in their Statutes and Regulations within one month from the date of this order Government will initiate

steps to amend the Acts of the University, if required to implement the Regulations. Government will also initiate steps to amend the Special Rules to give effect to the stipulations of the UGC Regulations.

6. Government are also pleased to order that where there are any provision in the Regulations inconsistent with the provisions in the G.O. read as 1st paper above, those provisions in the G.O. Would override the provisions in the Regulations to the extent of such inconsistency.

7. Government are also order that notwithstanding anything contained in the Regulations only those benefits both monetary and others specified in the Government Order read as 1st paper above would be receivable.

By order of the Governor, M.MOHAMMED BASHEER, Additional Secretary to Government."

19 It would be noticed that as per clauses 5 and 6 of the aforesaid order, all the Universities were required to incorporate the UGC Regulations in their Statutes and Regulations within one month from the date of issuance of the order and in terms of clause 4, these Regulations would come into force w.e.f. 18.9.2010. The Government was to initiate steps to amend the Acts of the University, if required to implement the Regulations. Government was also to initiate steps to amend the Special Rules to give effect to the stipulations of the UGC Regulations.

20 That apart, the Government had also ordered that where, there were any provision in the Regulations inconsistent with the provisions of the government order read as 1st paper above, those provisions in the government order would override the provisions in the Regulations to the extent of such inconsistency; meaning thereby that the government order was to be persuasive and would override all earlier orders as were inconsistent with this order.

21 It was in this background that the question regarding applicability of the UGC Regulations 2010 for appointment to the post of Principal was required to be considered and the same is specifically mentioned in para 8 of the judgment, relevant portion whereof reads as under:-

"It is in this background, the question regarding the applicability of UGC Regulations, 2010 to appointment to the post of Principal is required to be considered."

22 Therefore, observations made in paras 11 and 17 of the judgment of the Full Bench of the Kerala High Court have essentially to be read in light of the order issued by the government of Kerala on 10.12.2010.

23 It would be noticed that the judgment of the full bench of the Kerala High Court in D. Radhakrishnan Pillai's

case was thereafter assailed before the Hon'ble Supreme court in SLP (C) No. 18938-18942/2017 and on 17.7.2008, the Hon'ble Supreme Court disposed of the same by passing the following order:

"LA No (Application for impleadment) in SLP(C) No. 18938/2017 is taken on Board.

The petitioners are aggrieved by the impugned order dated 23.02.2016 passed by the Full Bench of the High Court of Kerala in Writ Petition No. 29253 of 2012 and connected matters. The crux of the dispute was the applicability of U.G.C. Regulations, 2010, regarding both Annexure and Appendix (qualifications and conditions of service). In *S.N College v. N. Raveendran*, 2001 3 KerLT 938, in the year 2001, the High Court had taken a view that unless the Statutes are amended by the Universities concerned, U.G.C Regulations will not be binding. The Full Bench, as per the impugned judgment dated 23.02.2016 has held that in view of the fact that the State Government had adopted the U.G.C. Regulations would apply from the date of adoption of the Regulations by the State.

Though several contentions are taken before us, it is not necessary for us to deal with them, since essentially we are of the view that for doing complete justice, this is a case where we have to only invoke our jurisdiction under Article 142 of the Constitution of India, since we do not propose to interfere with the impugned decision. As a matter of fact, even when first notice was issued by this Court on 27. 01.2017, it has been indicated so in the following lines:

"The learned Additional Solicitor General appearing for the State of Kerala submits that as far as the parties before the High Court are concerned, they are willing to implement the impugned judgment of the High Court whereas in the case of others whose appointments had been made on the basis of the decision of the Division Bench of the High Court in *"S.N.College Vs. N. Raveendran*, 2001 3 KerLT 938, their cases may not be Court in re-opened based on the impugned Full Bench Judgment.

Issue notice to the respondents excluding the petitioner(s) before the High Court, returnable in six weeks. Issue notice on the prayer for interim relief as well"

All the applications for impleadment/intervention are allowed.

The fact remains that the law has been settled by the High Court finally by the judgment of the Full Bench of the High Court of Kerala dated 23.02.2016 regarding the application 132 of U.G.C. Regulations. Therefore, it is only in the interest of justice and for doing complete justice between the parties to declare that the judgment dated 23.02.2016 will be applicable only from the date of the judgment i.e. 23.02.2016, except in the case of the individual parties before the High Court. Declared accordingly.

With the above clarification, all these Special Leave Petitions are disposed of.

However, we make it clear that in case any University has amended the Statutes, prior to the date of the judgment, the effect will be from the date as indicated in the amendment or the date of the actual order of implementation of the

Statutes. Pending application(s), if any, shall stand disposed of."

24 From the perusal of the aforesaid order, it would be noticed that the Hon'ble Supreme Court affirmed the decision of the Full Bench on noticing that the State government had itself opted/adopted UGC Regulations 2010 regarding both annexure and also appendix (qualification and conditions of service) and proceeded to pass the order, as quoted above.

25 Learned senior counsel for the petitioner has thereafter placed reliance on the judgment of the Punjab and Haryana High Court in CWP No. 22302 of 2010, case titled Mrs. Achla Dogra & ors. vs. The Central Administrative Tribunal, decided on 25.2.2012 to again contend that the requirement of Ph.D. degree for the post of Principal is mandatory even in the cases of promotion.

26 However, having gone through the judgment, we find the reliance to be clearly misplaced for the reason that the Chandigarh Education Service (Group "A" Gazetted) Government Arts and Science College Rules, 2010, as were applicable in that case, clearly provide for qualification of Ph.D. degree for promotion to the post of Principal and the petition in fact had been filed for quashing of these Rules. The Regulations of the UGC were in fact not even in question and only the Rules framed by the Chandigarh Administration under Article 309 of the Constitution were questioned.

27 The Division Bench of the Punjab and Haryana High Court after placing reliance upon the judgment of the Hon'ble Supreme Court in Chandigarh Administration vs. Usha Kheterpal Waie and ors., 2011 (9) SCC 645 dismissed the petition by holding that the Chandigarh Administration has power to prescribe such essential criteria/qualifications as it considers to be necessary and reasonable. Therefore, once the Chandigarh Administration, in its wisdom, prescribed Ph.D. degree as essential qualification for promotion to the post of the Principal to maintain the high standard of education, then the petitioners therein had no authority much less question the same. However, this is not the fact situation obtaining in the instant case.

28 What is the precise nature of the UGC Regulations and its binding effect on States has been considered and decided by the Hon'ble Supreme Court in Kalyani Mathivanan v. K.V.Jeyaraj [(2015) 6 SCC 363, wherein it has been held that the UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation. In this judgment, the question that arose for consideration was whether the UGC Regulations, 2010 are applicable to appointment to the post of Vice Chancellor of Madurai Kamaraj University established under the Madurai Kamaraj University Act, 1965. The discussions were summed up by the Hon'ble Supreme Court in paragraph 62 of the judgment by holding thus:

'62. In view of the discussion as made above, we hold:

62.1. To the extent the State legislation is in conflict with the Central legislation

including subordinate legislation made by the Central legislation under Entry 25 of the Concurrent List shall be repugnant to the Central legislation and would be inoperative.

62.2. The UGC Regulations being passed by both the Houses of Parliament, though a subordinate legislation has binding effect on the universities to which it applies.

62.3. The UGC Regulations, 2010 are mandatory to teachers and other academic staff in all the Central universities and colleges thereunder and the institutions deemed to be universities whose maintenance expenditure is met by UGC.

62.4. The UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation as the matter has been left to the State Government to adopt and implement the Scheme. Thus, the UGC Regulations, 2010 are partly mandatory and is partly directory.

62.5. The UGC Regulations, 2010 having not been adopted by the State of Tamil Nadu, the question of conflict between the State legislation and the Statutes framed under the Central legislation does not arise. Once they are adopted by the State Government, the State legislation to be amended appropriately. In such case also there shall be no conflict between the State legislation and the Central legislation.'

29 Thus, it would be seen that the UGC Regulations, 2010 are directory for the universities, colleges and other higher educational institutions under the purview of the State legislation as the matter has been left to the State Government to adopt and implement the Scheme. Thus, the UGC Regulations, 2010 are partly mandatory and is partly directory.

30 We are fully aware of the recent judgment rendered by the Hon'ble Supreme Court in Gambhirdan K. Gadhvi vs. State of Gujarat & ors., (2002) 5 SCC 179, wherein contrary view has been taken by the Hon'ble Supreme Court to the one taken in Kalyani Mathivanan's case (supra), however it would be noticed that even though Gambhirdan's case does make a reference to Kalyani Mathivanan's case, but there is no discussion about the law laid down therein and it is for this precise reason that the Hon'ble Supreme Court on 14.3.2022 issued notice in the aforesaid case by observing as under:-

"The impugned judgment of the High Court is based on the law laid down by this Court in Kalyani Mathivanan vs. K. V. Jeyaraj & ors., reported in 2015 (6) SCC 363 in which it was held that UGC Regulations are not binding unless adopted by the State Government. Learned counsel appearing for the petitioner submitted that this Court in Gambhirdan K. Gadhvi vs. State of Gujarat (Writ Petition (Civil) No.1525 of 2019 dated Though Kalyani there is a Mathivanan 03.03.2022) held otherwise. reference (supra) to the judgment of para 3.7 of the at Gambhirdan K. Gadhvi judgment, there is no discussion about the law laid down therein.

Issue notice returnable in four weeks.”

31 That apart, it needs to be further noticed that the Hon’ble Supreme Court, in its subsequent judgment, in *State of Uttarakhand vs. Sudhir Budakoti & ors.*, JT 2022 (4) SC 18, has relied upon and reiterated the legal position as laid down in *Kalyani Mathivanan’s* case.

32 Even as per the UGC, the regulations are framed by it from time to time, more particularly, the one’s applicable to the instant case, which are applicable only to the post of Principal to be filled up through direct recruitment and not otherwise unless specifically adopted and the reason for it appears to be logical as in terms of the judgment, referred to above, the matter regarding adoption of the UGC regulations has been left to the State Government. The UGC can have no say in the matter regarding the promotion, which is to be governed by the Rules framed by the State Government under Article 309 of the Constitution of India; unless the State government itself adopts the Regulations and make them applicable to the cases of the promotion.

33 Noticeably, even the Full Bench of the Kerala High Court in *M.G. University vs. John Kuriakose (Dr.)* 2015 (1) KHC 236, has held that there was no provision in the M.G. University Law for fixing the tenure of appointment of Principals as deemed to be permanent nature. UGC Regulations 2010 are applicable to appointment of Principals by direct recruitment and not through promotion.

34 The aforesaid judgment, in turn, was followed by learned Single Judge of Kerala High Court in WP (C) No. 11223/2020, case titled as *Dr. Rajumon T. Mavunkal vs. Mahatma Gandhi University & ors.*, decided on 5.2.2021.

35 Even otherwise, we find the stand taken by the State to be fair and reasonable. After all, having two modes of appointment(s) with different qualifications is only an intelligible differentia.

36 The object of infusing and inducting young blood by direct recruitment into the service and experienced officers by promotion is constitutionally permissible and valid to augment efficiency of service to inculcate discipline, honesty, integrity and excellence in higher echelons of service and in case claim of the petitioners is acceded to, then very object of attracting and having younger person with higher academic qualification and experienced officials promoted from the lower cadres in the prescribed proportion, in a given cadre, and purpose of prescribing recruitment from these two different sources would be defeated.

37 In such circumstances, it would not be reasonable or even prudent, or for that matter to expect, the promotee to be holding Ph.D. at the time when they were inducted in service or clear such qualification during his tenure, especially when majority of these teachers have been rendering their services in the far flung and backward areas of Himachal Pradesh.

38 Lastly or more importantly, it would be noticed that it was after issuance of the UGC regulations 2010 that the State Government revised its Rules for filling

up the post of Principal and in accordance with the H.P. Higher Education Regulations, 2012 requirement of having Ph.D. is not mandatory.

39 As observed above, the post of Principal (college cadre) is to be filled up by promotion and through direct recruitment in the ratio of 75:25 i.e. 75% by promotion and 25% by direct recruitment through Commission on all India basis.

40 Therefore, once it is concluded that the UGC regulations did not apply to the post of principal to be filled up on the basis of promotion and rather applicable to the post of principal to be filled up through direct recruitment, the instant petition sans merit and is accordingly dismissed. Pending application (s), if any, also stands disposed of.