
(2019) 09 RAJ CK 0170

In the Rajasthan High Court

Case No : Civil Writ Petition No. 14914 Of 2018

Laxmi Narayan Bairwa

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 18-09-2019

Acts Referred:

Jai Narayan Vyas University Act, 1962 — Section 11
Maharshi Dayanand Saraswati University Act, 1987 — Section 9
University Grants Commission Act, 1956 — Section 2(f), 4, 12, 12A, 12(d), 12(e), 14, 22, 26, 26(1), 26(1)(e), 26(1)(g)
Maharashtra Universities Act, 1994 — Section 12
Universities And Colleges And Measures for The Maintenance Of Standards In Higher Education) Regulations, 2010 — Regulation 7.2.0, 7.3.0, 7.4.0

Citation : (2019) 09 RAJ CK 0170

Hon'ble Judges : S. Ravindra Bhat, J; Vinit Kumar Mathur, J

Bench : Division Bench

Advocate : Anirudh Purohit, R.N. Mathur, Kuldeep Mathur, Ankur Mathur, P.R. Singh Jodha, Sandeep Shah, Abhimanyu Singh Rathore

Final Decision : Dismissed

Judgement

1. The petitioner in this public interest litigation, challenges the validity of notifications dated 05.05.2017 issued by the first respondent (State of Rajasthan, referred to hereafter as "the State") which received assent of the Governor on 04.05.2017. The two impugned notifications amend the Jai Narayan Vyas University Act, 1962 (hereinafter "JNVU Act, 1962") and Maharshi Dayanand Saraswati University Act, 1987 (hereinafter "MDS Act, 1987"). The challenge is primarily on the ground that the amendment of qualifications for appointment to the post of Vice Chancellor contravene the UGC Regulations on Minimum Qualifications for Appointment of Teacher & Other Academic Staff in the Universities & Colleges & Other Measures for Maintenance of Standards in Higher Education, 2010 and its amendments (hereinafter "UGC Regulations, 2010"), framed under the University Grants Commission Act, 1956 (hereafter "UGC Act").

2. On 28.06.2010, the University Grants Commission (hereafter "UGC"), in exercise of its powers under the UGC Act framed the UGC Regulations, 2010. On 22 September, 2010, the State of Rajasthan by an order, adopted the UGC Regulations, 2010, making all its provisions applicable to universities in the State of Rajasthan. In 2017, Bill No.14 of 2017 was introduced to amend the JNVU Act, 1962. The petitioner alleges that the statement of objects and reasons of the Bill stated that the amendment was made to give effect to Clause 7.3.0 of the UGC Regulations, 2010 and its subsequent amendments in the year 2013. However, its contents reveal that the Bill was not in conformity with the mandate of the UGC Regulations, 2010 as the provision with regard to the highest level of competence, integrity, morals and institutional commitment were conspicuously missing. The term 'college' as appearing in the notification dated 05.05.2017 does not find mention in the Bill. In same manner, Bill No. 23 of 2017 was introduced to amend the MDS Act, 1987.

3. On 5.05.2017, the State by notification, incorporated some qualifications for the post of Vice Chancellor in the Acts of various universities. Consequently, the JNVU (Amendment) Act, 2017 and MDS (Amendment) Act, 2017 were introduced. These Acts amended Section 11 of the JNVU Act and Section 9 of the MDS Act respectively, inter alia, providing qualifications for appointment to the post of Vice Chancellor.

4. The petitioner relies on the concerned provision under the UGC Regulations, 2010 and argues that it prescribes a standard for appointment of vice chancellors of universities, which cannot be deviated from. The said provision reads as follows:

"7.3.0 Vice Chancellor:

i. Persons of the highest level of competence, integrity, morals and institutional commitment are to be appointed as Vice Chancellor. The Vice Chancellor to be appointed should be a distinguished academician, with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organization."

5. The impugned qualifications, introduced by virtue of the amendments and consequential notifications, state as follows:

"No person shall be eligible to be appointed as Vice Chancellor unless he is a distinguished academician having a minimum of ten years experience as Professor in a University or college or ten years experience in an equivalent position in a reputed research and /or academic administrative organization."

6. It is argued on behalf of the petitioner, by learned counsel Mr. Anirudh Purohit, that the amendment and impugned qualifications are unsustainable because they do not follow the mandate of the UGC Regulations as they do not provide that "persons of the highest level of competence, integrity, morals and institutional

commitment are to be appointed as Vice Chancellors."

7. It is argued that the UGC in its wisdom had required the experience of 10 years for a candidate in a university system. The State has violated the mandate of the UGC Regulations, 2010 by incorporating the word 'college' in the Amendment Act, 2017.

8. Mr. Purohit argued that a look at the Bill discloses that the term 'college' does not find a mention there and the requirement of the experience of 10 years is in accordance with what has been provided under the UGC Regulations, 2010. Further, a look at the statement of the objects and reasons of the Bill shows that the Bill was introduced to give effect to Clause 7.3.0 of the UGC Regulations, 2010 and its subsequent amendments in the year 2013. Though the Bill was brought with a partial intention of bringing the requirement and qualifications in line with the mandate of the UGC Regulations, 2010, yet, the Amendment Act was passed in utter violation of the UGC Regulations, 2010 and its subsequent amendments which are mandatory in nature.

9. It is argued by counsel that the UGC Act was enacted by Parliament in exercise of its power under Entry 66 of List-I of the Seventh Schedule to the Constitution of India for coordination and determination of standards in institutions for higher education or research, and scientific and technical institutions. Section 2(f) of the Act defines the term "university". It states that "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under this Act. Further, Section 26 of the UGC Act empowers the UGC to prescribe regulations which shall apply to all universities. The relevant portion is quoted hereunder:

"26(1). The Commission [may, by notification in the Official Gazette, make regulations] consistent with this Act and the rules made thereunder:-

(a) ###

(b) ###

(c) specifying the terms and conditions of service of the employees appointed by the Commission.

(d) ###

(e) defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction;

(f) defining the minimum standards of instruction for the grant of any degree by any University;

(g) regulating the maintenance of standards and the coordination of work or

facilities in Universities.

(h) ###

(2) ###

(3) ###"

10. It is argued that the JNVU Act as well as the MDS Act were enacted by the State further to Entry 25 of List-III of the Seventh Schedule to the Constitution of India for establishment or incorporation of Universities in Rajasthan. A conjoint reading of the regulations in the light of the UGC Act and the provisions of the Constitution as well as its comparative assessment with the JNVU Act/ MDS Act would reveal that the UGC Regulations, 2010, so far as they relate to the criteria for appointment of the VC, was issued in exercise of the powers conferred under Section 26(1) (g), for the purpose of regulating the maintenance of standards and coordination of work in the universities.

11. The UGC Act defines the term "University" under Section 2(f) of the Act, to include all universities, whether established by Central Acts or State Acts and its provisions apply per se, without any deviation. Reliance is placed on the judgments of the Supreme Court in *P. Suseela and Ors. v. University Grants Commission and Ors.* (2015) 8 SCC 129; *Annamalai University Represented by Registrar v. Secretary to Government, Information and Tourism Department* (2009) 4 SCC 590, and *University Grants Commission and Anr. v. Neha Anil Bobde (Gadekar)* (2013) 10 SCC 519. Mr. Purohit relied especially on *Kalyani Mathivanan v. K.V. Jeyaraj and Ors.* (2015) 6 SCC 363 and urged that the Supreme Court had categorically ruled that any State enactment contrary to the UGC Regulations of 2010 are invalid and unenforceable.

12. It was argued that it has been clearly established in this case that the UGC Regulations, 2010 have to be mandatorily implemented. The regulations, as they stand today, after amendments in the years 2013 and 2016, do not make a professor in a college system eligible for appointment to the post of Vice Chancellor. Counsel for the petitioners argued that the intention in the UGC Regulations, 2010 is required to be implemented by the State and the impugned amendment notifications deserve to be declared illegal. The Bills introduced also did not make a professor in a college system eligible for appointment to the post of Vice Chancellor. It is submitted that therefore, the amendment notifications are bad in law. Further, the State cannot be permitted to contend that the expression 'college' would have, in any case, fallen under 'in an equivalent position in a reputed research and/or academic administrative organization.' Had this been the case, a specific inclusion of the word 'college' would not have been required under the impugned notification, more so, when the term 'college', did not find a place in the Bills.

13. Mr. Purohit argued that the act of the State is thus clearly one lowering the standards, which is impermissible under the law laid down by the Supreme

Court. UGC Regulations provide for the minimum qualifications required. Therefore, no dilution of the minimum qualification provided thereunder is permissible. It is argued that there is no reason for not including the word 'college' in the UGC Regulations, unless the legislature, specifically in its wisdom, intended not to. The impugned notifications are therefore bad in law and deserve to be declared to be illegal.

14. The respondents, including the State, argue that though the petitioner has styled the present petition as a public interest litigation, the controversy essentially falls within the category of service matters and the law in this regard is no longer *res integra*, and that no PIL is maintainable in service matters. In this regard, it is submitted that through the order dated 11.10.2018, the application filed by the petitioner to array the seventh and eighth respondents (M/s R.P. Singh and Gulab Singh, Vice-Chancellors of MDS University and JNVU) was allowed.

15. It is further submitted that the petitioner has claimed that the advertisement dated 09.04.2018 as well as 28.08.2018 for appointment to the post of Vice-Chancellor of JNV University Jodhpur and MDS University, Ajmer ought to be set aside and subsequently appointments to the said posts are also challenged. In such circumstances, it is clear that the petition was filed challenging the amendments to the JNVU Act, 1962 and MDS Act, 1987, questioning the process of appointment to the post of Vice Chancellor of the two Universities. Thus, it is clear that the case involves a service matter. It is urged that though the petitioner challenges appointment to the post of Vice-Chancellor, he is not an applicant for the said post. Having not taken part in the recruitment process, he has no locus to challenge it. The respondents question the bona fides of the petitioner's residential status, and his assertion of being a law student, since he has challenged the process in respect of only two universities. Therefore, it is contended that the present petition is a service matter, by way of which the motive of the petitioner has been to challenge the appointments made to the post of Vice Chancellor of JNV University and MDS University.

16. The respondents cite *Bholanath Mukherjee and Ors. Vs. Ramakrishna Mission Vivekananda Centenary College and Ors.* (2011) 5 SCC 464, *P. Seshadri v. S. Mangati Gopal Reddy & Ors.* (2011) 5 SCC 484, in *Dr. B. Singh v. Union of India and Ors.* (2004) 3 SCC 363 to argue that a public interest litigation is maintainable in service matters.

17. It is also contended by learned senior counsel Mr. R.N. Mathur that the UGC Act, 1956 has been enacted by the Parliament in exercise of its powers conferred under Entry 66 of List I of Schedule VII to the Constitution of India. Under that Act, the UGC was set up, which further issued the UGC Regulations, 2010. The respondents urge that though the UGC Regulations, 2010 were adopted by the State of Rajasthan through communication dated 22.09.2010, it does not follow that those regulations have to be enforced by the letter. In this regard, the communication (dated 22.09.2010) reveals that the UGC Regulations, 2010 have

been adopted with modifications.

18. It is submitted by learned senior counsel Mr. R.N. Mathur that as far as the Acts (such as the JNV Act and MDS Act) along with their amendments legislated by the State legislature for administering universities within the State of Rajasthan are concerned, they are within the legislative competence of the State Legislature; it is the same with the amendments challenged here. The respondents argue that the UGC Regulations, 2010 are merely directory and not mandatory in nature. The controversy in this regard has been settled by the law declared by the Supreme Court in *Kalyani Mathivanam* (supra).

19. Learned senior counsel argued that otherwise too, in terms of the JNVU (Amendment) Act, 2017, Section 11 of the JNV Act, 1962 has been amended. The amended Section 11 provides that a Vice-Chancellor shall be a whole time paid officer of the University and that no person shall be eligible to be appointed as Vice Chancellor unless he is a distinguished academician with a minimum of 10 years' experience as a professor in the university or college or 10 years' experience in an equivalent position in a reputed research and/or academic administrative organization. Further, her or his candidature has to be scrutinized by a search committee which will give proper weightage to academic experience, exposure to higher education etc., of the concerned candidates. So also, it is clear that the Vice Chancellor is to be appointed by the Chancellor in consultation with the State Government on the basis of the search committee's report. Therefore, the stipulation under the UGC Regulations, 2010 that the Vice-Chancellor should be a person of the highest level of integrity, competence and morals is implied in the process of appointment provided for in the JNV Act as well as the MDS Act and there are no provisions in these Acts that are contrary to the UGC Regulations, 2010.

20. It is urged that the advertisements dated 09.04.2018 and 28.08.2018 and the subsequent process of appointment to the post of Vice Chancellor of JNV University and MDS University were undertaken in accordance with provisions of law. For the process of appointment to the post of Vice Chancellor to JNV University, a search committee was set up to scrutinize and examine the applications received. Similarly, for MDS University as well, a search committee as per the MDS Act, 1987 was established to scrutinize the applications received. Thereafter, upon consultation with the State Government, orders were issued for appointment of Vice Chancellors for both Universities on 05.10.2018. It is submitted that the search committees so established scrutinized all applications received from various angles and thereafter, the recommendations were submitted. In this context, it is urged that the Supreme Court has observed in several judgments- such as in *Thahira P. v. State (UT of Lakshadweep)* (2018) 6 SCC 446 that in matters concerning appointments, any interference by the Court would amount to trenching on the wisdom and expertise of the selecting authority, leading to avoidable litigation and uncertainty of employment as far as the candidate is concerned. Further, in *Common Cause v. Union of India* (2018) 9

SCC 382, it was held that in judicial review, the court cannot rule over choice of selection. It is for the executive to select the personnel in terms of legal provisions, having regard to the procedure prescribed. The suitability of a candidate for appointment to a post is to be judged by the appointing authority and not by the court unless the appointment is contrary to the statutory rules/provisions and the court should keep in mind the difference between judicial review and merit review.

Analysis and Conclusions

21. As is apparent from the factual discussion above, the issue which the court has to decide is the legality of the appointments made by the two universities pursuant to the amendments made by the State to the two State enactments. The petitioner contends that the UGC Regulations, 2010 prescribe mandatory (and hence, absolute and non-derogable) standards incapable of deviation by State universities in regard to eligibility conditions prescribed for the appointment of Vice Chancellors. The battle ground, so to say, is with respect to the stipulations in Section 26(1)(e) of the UGC Act and Clause 7.3.0 of the UGC Regulations, 2010. The petitioner urges that to the extent the provisions in the State enactments (introduced by amendments) differ from the stipulations in the UGC Regulations, they are repugnant and void and hence, unenforceable. Naturally, the respondents espouse a contrary view.

22. The UGC was established by the Central Government under Section 4 of the UGC Act. Its powers and functions are outlined in Chapter III of that Act. Section 12 of the UGC Act, which provides for functions of the UGC, inter alia, casts a duty upon it to, after consultation with universities, take steps as it deems fit "for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities...". To that end, the UGC can recommend measures to universities to improve university education and advise them as to "action to be taken for the purpose of implementing such recommendation" (Section 12 (d)), and call upon a university to furnish information relating to its financial position "or the studies in the various branches of learning undertaken in that University, together with all the rules and regulations relating to the standards of teaching and examination in that University respecting each of such branches of learning." (Section 12 (e)). Section 12A provides for regulation of fees and prohibition of donations in certain cases. Section 22 provides for the right to confer degrees; it states that only centrally established or State established universities (by enactments) or "an institution specially empowered by an Act of Parliament to confer or grant degrees" can do so.

23. The UGC's power to frame regulations is provided under Section 26. Section 26(1)(e) provides that the UGC may frame regulations "defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instructions". Section 26(1)(e) empowers the

framing of regulations "(f) defining the minimum standards of instruction for the grant of any degree by any University". Similarly, the regulation for maintenance of standards and the co-ordination of work or facilities in Universities is also a subject matter on which regulations can be framed, as there is a power to regulate "the establishment of institutions referred to in clause (ccc) of Section 12".

24. The question involved in Kalyani Mathivanan (supra) was whether the UGC Regulations, 2010 stipulating conditions of eligibility for appointment of Vice Chancellors, could have been ignored while filling the post of Vice Chancellor to the Madurai Kamaraj University. The argument made was that as long as appointment was made in consonance with the State enactment, it could not be challenged on the premise that the UGC Regulations, 2010 were not followed. The Madras High Court negated the contention and held that the appointment was contrary to law as the candidate did not fulfil the stipulations of the UGC Regulations, 2010. The Supreme Court after reviewing previously submitted decisions including the judgment in Annamalai University (supra) and a judgment of the Bombay High Court (Suresh Patilkhede v. Chancellor, Universities of Maharashtra (2012) SCC OnLine Bom 2005), held that Regulation 7.3.0 is traceable to Section 26(1)(e) of the UGC Act. The court further pertinently observed that the UGC Regulations, 2010 had a directory provision for Universities and Higher Educational Institutions under the purview of the State legislation, and it is left to the State to adopt and implement the scheme. It was also held that the State legislation could be amended appropriately. The relevant observations of the Supreme Court in Kalyani Mathivanan (supra) are as follows:

"55. The aforesaid judgment makes it clear that to the extent the State Legislation is in conflict with Central Legislation including sub-ordinate legislation made by the Central Legislation under Entry 25 of the Concurrent List shall be repugnant to the Central Legislation and would be inoperative.

56. The question that now arises is whether any of the provisions of the State Legislation (University Act, 1965) and statutes framed thereunder is in conflict with the Central Legislation i.e. UGC Act, 1956 including UGC Regulations, 2010.

57. We find that post of Vice-Chancellor under the Uni-versity Act, 1965 is a post of an Officer. The UGC Act 1956 is silent about this aspect. The UGC Regulations, 2000 are also silent in regard to post of Vice-Chancellor. Provisions regarding Vice-Chancellor have been made for the first time under UGC Regulations, 2010.

We have noticed and held that UGC Regulations, 2010 is not applicable to the Universities, Colleges and other higher educational institutions coming under the purview of the State Legislature unless State Government wish to adopt and implement the Scheme subject to the terms and conditions therein. In this connection, one may refer paragraph 8(p)(v) of Appendix-I dated 31st December, 2008 and Regulation 7.4.0 of UGC Regula-tions, 2010.

58. It is also not the case of the respondents that the Scheme as contained in

Appendix-I to the Annexure of UGC Regulations, 2010 has been adopted and implemented by the State Government. It is also apparent from the facts that University Act has not been amended in terms of UGC Regulations, 2010 nor was any action taken by the UGC under Section 14 of UGC Act, 1956 as a consequence of failure of University to comply with the recommendations of the Commission under Section 14 of the UGC Act, 1956.

59. Almost similar Public Interest Litigation was filed before the High Court of Judicature at Bombay being Public Interest Litigation (Lodging) NO.80 of 2011 Suresh Patilkhede v The Chancellor, Universities of Maharashtra (supra). In the said case the writ petitioner challenged the appointment of Search Committee for recommending the panel of suitable person for selection of Vice-Chancellor of Pune University on the ground that the appointment of the Search Committee by the Chancellor in accordance with the provisions of Section 12 of the Maharashtra University Act is not in conformity with the provisions of Regulation 7.3.0 of the UGC Regulations, 2010 made under the UGC Act.

60. In the said case also, State of Maharashtra and the Chancellor of Pune University while opposing the writ petition had taken a plea that UGC Regulations, 2010 being in the nature of subordinate Legislation cannot override the provisions of Section 12 of the Maharashtra University Act, 1994, which is a preliminary Legislation made by the State Legislature. In the said case the Bombay High Court held:

"16.....Applying the aforesaid test of "direct impact on the standard of Education" and the principles laid down in the aforesaid decisions, we are of the view that the qualifications and the method of appointment for the post of Pro-Chancellor and Vice-Chancellor of a University cannot be considered as having "direct impact on the standards of education.

17. We are, accordingly, of the considered view that Regulations 7.2.0 and 7.3.0 of UGC Regulations for appointment of Pro-Chancellor and Vice-Chancellor of the University governed by UGC Act cannot be treated as falling under Clauses (e) and (g) of Section 26(1) of the UGC Act, 1956."

The Bombay High Court further held:

"46. As already held by us, Regulations 7.2.0 and 7.3.0 of UGC Regulations, 2010 are traceable to Section 12(d) of UGC Act, 1956. The same are not without any authority of law but at the same time, they are merely recommendatory in nature and, therefore, neither the State Legislature nor the State Government is bound to accept the same. Accordingly, when the State Government is sued order dated 15th February, 2011 at Exhibit 'F' enumerated those regulations which are adopted by the State Government out of UGC Regulations, 2010, the State Government decided not to adopt Regulations 7.2.0 and 7.3.0. We, therefore, find considerable substance in the argument of learned Advocate General that non-adoption of directory Regulation 7.3.0 would not render the State legislation or the Government order dated 15th February, 2011 invalid or

unconstitutional.

47. To sum up-

Regulation 7.3.0 of UGC Regulations, 2010 is not trace-able to clause (e) or clause (g) of Section 26 (1) of the University Grants Commission Act, 1956.

The source of making Regulation 7.3.0 of UGC Regulations, 2010 is Section 12 (d) and (j) of UGC Act, 1956. However, since Section 12 (d) and (j) of UGC Act merely enables UGC to make recommendations to Universities, Regulation 7.3.0 has to be treated as recommendatory in nature.

Regulation 7.3.0 of UGC Regulations, 2010 being a sub-ordinate legislation under an Act of Parliament cannot override plenary legislation enacted by the State Legislature and, therefore, also Regulation 7.3.0 does not over-ride, Section 12 of the Maharashtra Universities Act, 1994."

61. We do not agree with the finding of the Bombay High Court that Regulation 7.3.0 of the UGC Regulations, 2010 is not traceable to clause (e) or (g) of Section 26(1) of UGC Act, 1956. We also refuse to agree that Regulation 7.3.0 of the UGC Regulations, 2010 being a sub-ordinate legislation under the Act of Parliament can-not override the preliminary legislation enacted by the State Legislature. However, the finding of the Bombay High Court that Regulation 7.3.0 has to be treated as recommendatory in nature is upheld in so far as it re-lates to Universities and Colleges under the State Legis-lation.

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

(i) To the extent the State Legislation is in conflict with Central Legislation including sub-ordinate legislation made by the Central Legislation under Entry 25 of the Concurrent List shall be repugnant to the Central Legis-lation and would be inoperative.

(ii) The UGC Regulations being passed by both the Houses of Parliament, though a sub-ordinate legislation has binding effect on the Universities to which it applies.

(iii) 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 the UGC.

(iv) UGC Regulations, 2010 is directory for the Universi-ties, 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 im-plement the Scheme.

Thus, UGC Regulations, 2010 is partly mandatory and is partly directory.

(v) UGC Regulations, 2010 having not adopted by the State Tamil Nadu, the question of conflict between State Legislation and Statutes framed under Central Legislation does not arise. Once it is adopted by the State Govern-ment, the

State Legislation to be amended appropriately. In such case also there shall be no conflict between the State Legislation and the Central Legislation.

63. In view of the reasons and finding as recorded above, we uphold the appointment of Dr. Kalyani Mathivanan as Vice-Chancellor, Madurai Kamaraj University as made by the G.O.(1D)No.80, Higher Education (H2)Department, Government of Tamil Nadu dated 9th April, 2012 and set aside the impugned common judgment and order dated 26th June, 2014 passed by the Division Bench of the Madras High Court, Madurai Bench in Writ Petition (MD) No.11350 of 2012 and Writ Petition (MD) No.3318 of 2013. The appeals are allowed but, in the facts and circumstances of the case, there shall be no order as to costs."

25. The crucial point, in the opinion of this Court, is that the Supreme Court in at least two places, held that Regulation 7.3.0 has to be treated as recommendatory in nature, in as much as it relates to Universities and Colleges under a State legislation. This conclusion is also recorded in para 62.4 quoted above. As a consequence, this Court is unable to accept the petitioner's argument that if a State once adopts such a recommendatory regulation (i.e. Regulation 7.3.0), its legislature is denuded of the power to legislate anything in deviation for all times to come. This conclusion is based upon two considerations. One is that Section 26(1)(e) is not cast in mandatory terms but rather states that "ordinarily" the stipulations would be adhered to. The second important consideration is that Central or State Universities created by law are not only covered but the other species of institutions such as deemed universities (under UGC Act) would be covered. If what the petitioner contends was to be accepted (Vice Chancellor of University), the consequence would be that vice chancellors with a limited number of students - 1000, offering only 5 disciplines would be eligible, whereas Deans of a large University (or senior professors heading departments in such universities) with administrative experience of heading faculties, which control administrative and educational functions of a large number of colleges on various aspects (whose students may well run into over 10,000) in diverse disciplines like English, Sciences, Law, Commerce, etc. would be ineligible for consideration. Given that the standards for Vice Chancellors were framed for the first time in 2010, the choice of the State to either continue to adhere to them, or to make statutory provisions in its university legislation, cannot be dictated in this manner. It is clear that the State's judgment based upon the experience gained in its higher educational activities, assumes importance. The State may then well decide to depart from the UGC Regulations, 2010 and legislate either independently or through amendments (which it is empowered to do in exercise of its plenary legislative powers), providing for eligibility conditions that may be wider than those stipulated by the UGC Regulations, 2010. That appears to be the case in the present proceedings.

26. In view of the foregoing discussion, this Court is of the opinion that on a proper application of the ratio in Kalyani Mathivanan (supra), the impugned amendments and the impugned notifications cannot be quashed or held to be

void. The writ petition therefore has to fail; it is accordingly dismissed.