

**(2012) 07 DEL CK 0413**  
**In the Delhi High Court**  
**Case No : WP (C) 12422 of 2009**

M. S. Frank

APPELLANT

Vs

Delhi University and Others

RESPONDENT

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**Date of Decision :** 03-07-2012

**Acts Referred:**

Constitution of India, 1950 — Article 12, 226, 30(I)  
Delhi University Act, 1922 — Section 2, 2(d)  
University Grants Commission Act, 1956 — Section 2(f), 22, 22(1), 22(3), 3

**Citation :** (2012) 07 DEL CK 0413

**Hon'ble Judges :** Siddharth Mridul, J

**Bench :** Single Bench

**Advocate :** Prashant Bhushan, with Mr. Rajat Singh, for the Appellant; Maninder Acharya, Advocate Mr. Yashish Chandra, Advocate for R-1, Mr. Rajeev Sharma, Advocate and Mr. Uddyam Mukherjee, Advocate for R-2 and R-3, Mr. Amitesh Kumar, Advocate for R-4, Mr. Romy Chacko, Advocate and Mr. Satya Mitra, Advocate for R-5, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Siddharth Mridul, J.—The present writ petition challenges the appointment of respondent No. 5 to the post of Principal of the St. Stephen's College, Delhi, respondent No. 3 herein. The petitioner who at the time of filing the writ petition was the Vice Principal of the respondent No. 3 seeks issuance of a writ of quo warranto directing respondent No. 1, Delhi University, not to recognize and approve the qualification of respondent No. 5. The petitioner also seeks for a declaration that Ph.D. for the post of Principal has to be in a "relevant subject". Although the petition also seeks a declaration that the Ph.D. degree of respondent No. 5 is not valid, no averment with regard to the said plea has been made in the main body of the writ petition and as such the said prayer is not being considered for grant hereinbelow. The broad contours of the petitioner's case and the facts germane for the disposal of the instant petition are as follows:-

(i) The respondent No. 5 taught English in St. Stephen's College from 1973 to

2003 after completing his Masters in English from the said college. The respondent No. 5 resigned from the college and exited the University system in 2003.

(ii) On 16th December, 2004 respondent No. 5 was appointed as a member of the National Commission for Minority Educational Institutions (NCMEI).

(iii) The office of the Principal of St. Stephen's College fell vacant temporarily on 2nd January, 2007 consequent upon the appointment of Dr. Anil Wilson as the Vice Chancellor of Himachal University. On 19th May, 2007, against the vacancy in the post of Principal of St. Stephen's College, the respondent No. 5 was appointed as Officer on Special Duty (OSD) to the college under Ordinance XVIII of the University of Delhi.

(iv) On 8th October, 2007 a petition was filed before the NCMEI challenging the appointment of respondent No. 5 as the OSD.

(v) On 5th February, 2008, NCMEI declared respondent No. 5's appointment as OSD as patently illegal and set it aside as inoperative.

(vi) On 15th March, 2008, respondent No. 5 resigned from the post of OSD and his resignation was accepted by respondent No. 3.

(vii) In July 2008, the St. Stephen's College represented by its Supreme Council challenged the constitutional validity of Clause 7(2) of Ordinance XVIII of the Delhi University Act seeking a declaration that it does not apply to a minority educational institution.

(viii) On 21st August, 2008 a Division Bench of this Court in WP(C) No. 5226/2008 declared that Clause 7(2) which deals with the selection procedure for appointing Principal does not apply to St. Stephen's College.

(ix) On 12th September, 2008 respondent No. 5 was appointed, by a Selection Committee which interviewed 11 short listed applicants, as Principal of St. Stephen's College to take charge w.e.f. 15th September, 2008.

(x) In response to a letter of the Chairman, the Deputy Registrar (Colleges) of the University, through letter dated 16th October, 2008 asked the Chairman of Supreme Council and Governing Body to provide documents pertaining to appointment of respondent No. 5. In reply thereto the Chairman, Supreme Council through letter dated 23rd October, 2008 forwarded the documents asked for. In reply thereof on 19th December, 2008 the Delhi University called for additional documents to fix pay scale. On the basis of the aforesaid documents being submitted and upon being satisfied that all aspects of appointment were in order the Delhi University through letter dated 21st January, 2009 intimated to the respondent No. 2 and 3 that the pay scale of respondent No. 5 as Principal stand fixed and approved.

(xi) On 17th February, 2009 due to doubts arising over the qualifications of respondent No. 5, respondent No. 2 wrote to respondent No. 1 seeking

information on whether Ph.D. has to be in a relevant subject and whether on leaving the University system and then re-entering the system the person would have to qualify NET or would he be exempted only if his Ph.D. is in a concerned subject which is also a taught subject.

(xii) On 6th April, 2009, respondent No. 1 clarified in a response to a RTI application that there had been no communication (till date) approving respondent No. 5's appointment as Principal. On 24th April, 2009, another RTI reply from the respondent No. 1 clarified that the eligible candidates for the post of Principal in ALL colleges are required to possess the qualification requirements.

(xiii) On 24th April, 2009, RTI applicant informed respondent No. 2 via E-mail along with other relevant documents attached thereto that as per the information received under the Right to Information Act, 2005 respondent No. 1 has not yet approved the appointment of respondent No. 5 as Principal.

(xiv) Independently on 27th April, 2009 respondent No. 5 issued show cause notice to the petitioner for refusing to implement directions of the Principal. The said show cause notice also reprimanded the petitioner for citing University Regulations and overruling the Principal.

(xv) On 4th May, 2009, the Public Information Officer(PIO) of St. Stephen's College in reply to an RTI application stated clearly that Clause 1 of the Delhi University Ordinances provides that a Principal is required to undertake some teaching work in the college or in the University. The PIO further clarified that respondent No. 5 has neither cleared NET nor had he completed M.Phil. or Ph.D. Furthermore it was clarified that respondent No. 5 has the Ph.D. degree in a subject not taught in the University. Pertinently, in response to an article published in the Hindustan Times on 2nd June, 2009 which was brought to the notice of the University Grants Commission and the Delhi University by respondent No. 5, on 3rd June, 2009, the UGC issued a clarification wherein it clarified that NET and M.Phil. are not prescribed as requirements for the post of Principal but as per UGC Regulations NET is one of the minimum requirements for the post of Lecturer (now Assistant Professor) and not for the post of Principal.

(xvi) On 20th August, 2009, respondent No. 5 sent another show cause notice to the petitioner for upholding the regulations laid down by the College Constitution. The said show cause notice was replied to by the petitioner vide reply dated 26th August, 2009 stating therein that the petitioner only worked within the framework of the College Constitution.

(xvii) On 5th October, 2009 a former student of the college, one Mr. Ashish Joshi, wrote to respondent No. 2 and 3 appealing them to take up the issue of respondent No. 5 not having relevant qualification and other irregularities in relation to appointment of respondent No. 5.

(xviii) The present petition was filed on 13th October, 2009.

2. On behalf of the petitioner it is urged that the challenge to the appointment of

respondent No. 5 is founded on the lack of qualification for the post of Principal as predicated upon Ordinances XVIII and XXIV of the Delhi University Ordinances. It is urged that the respondent No. 5 does not fulfill the minimum qualification required to be met in order to be appointed as Principal of St. Stephen's College. According to the petitioner a Principal must have a Ph.D. in a relevant subject taught in the college since he is required to carry out some teaching work in the college as well. It is further urged on behalf of the petitioner that the Ph.D. in Theology possessed by respondent No. 5 does not suffice to enable the respondent No. 5 to be appointed as Principal of the St. Stephen's College.

3. Per contra it is urged on behalf of the respondent No. 5 that qualification of Ph.D. for the position of Principal need not be in a relevant subject taught in the college. Further, since the post of Principal is only an administrative job and although there are some teaching requirements, Clause 7(1) of Ordinance XVIII does not amend the qualification required for the post of Principal. The respondent No. 5 urges certain preliminary objections with regard to the maintainability of writ of quo warranto; locus standi of the petitioner; and delay and laches in filing the present petition. The respondent contends that a minority educational institution such as St. Stephen's College does not come within the ambit of Article 12 of the Constitution of India and therefore the post of Principal of St. Stephen's College is not a public office and that consequently a writ of quo warranto against the said college would not be maintainable. The respondent contends that the petitioner has not locus to seek the relief sought in as much as the petitioner is not an aggrieved person. In this behalf it is pointed out that the Supreme Council of the St. Stephen's College interviewed 11 candidates and created a panel of two persons in the order of merit and the petitioner was not short listed on the panel for consideration. The respondent No. 5 further urges that the respondent was appointed on 12th April, 2008 and the present petition being filed only on 13th October, 2009 after a period of more than a year is hit by delay and laches.

4. Interestingly, in this behalf it is noticed that, in the counter affidavit filed by respondent No. 2 and 3 i.e., the Governing Body and the Supreme Council of St. Stephen's College, it is urged that since there is lack of clarity on the aspect it would be appropriate and in the fitness of things for this Court to settle this issue once and for all.

5. In the rejoinder it has been urged on behalf of the petitioner that several judgments including that of *Kumkum Khanna v. Mother Aquinas*, ILR 1976 (1) Del 31 support his argument that the post of Principal is public office. Further it is urged by the petitioner that he had in fact applied for the post of Principal and was one of the short listed candidates called for the interview where ultimately the respondent No. 5 was appointed as Principal of the St. Stephen's College and as such he has locus to maintain the present petition. It is further urged on behalf of the petitioner that the relevant documents that form the basis of a

credible legal challenge to the appointment of the respondent No. 5 as Principal of the St. Stephen's College came into his possession only in the month of October, 2009 and as such prior to this the petitioner did not have sufficient material to challenge the appointment.

6. First of all it would be appropriate to deal with the preliminary objections urged on behalf of the respondent No. 5 as aforesaid. It is the case of the respondent No. 5 that the petitioner has no locus standi to present the petition as he did not figure in the panel of names prepared by the respondent No. 3 for the post of Principal. In this behalf it is observed that the petitioner has Ph.D. degree in Chemistry and has been teaching Chemistry in St. Stephen's College for the last 30 years. Further, the petitioner was also one of the short listed candidates called for the interview in September 2008 for the purpose of selection of Principal where eventually the respondent No. 5 was selected for the post. In my view the petitioner has locus to challenge the selection of respondent No. 5 as Principal of the St. Stephen's College since he was one of the candidates invited for interview for the said post even though he was not found suitable to be placed on the panel for final consideration.

7. Insofar as issue of delay and laches is concerned it is observed that although the respondent No. 5 was appointed on 12th September, 2008 and the petition was filed only on 13th October, 2009 after a delay of more than a year, it is seen that the relevant documents relied upon by the petitioner came into his possession over a period of time following the appointment of respondent No. 5 as Principal of the St. Stephen's College. Furthermore, the correspondence and the documents pertaining to the case were sent to the petitioner only in the month of October 2009 by a former student of St. Stephen's College, one Mr. Ashish Joshi, who had filed an RTI application in this behalf before the concerned authorities. I am therefore of the opinion that the delay in filing the present petition has been sufficiently explained by the petitioner so as to cross the threshold of laches urged on behalf of the respondent No. 5.

8. The last preliminary issue urged on behalf of the respondent No. 5 is that a writ of quo warranto is not maintainable against the St. Stephen's College since the post of Principal is not a public office and also because a minority educational institution like St. Stephen's College does not come within the ambit of Article 12 of the Constitution of India. In this behalf the respondent No. 5 relies upon the decision in *Sindhi Education Society and Another Vs. The Chief Secretary, Govt. of NCT of Delhi and Others*, . However, it is noticed that the said decision was concerned with State imposed reservation for SC/ST teachers in minority schools (aided or unaided) and the Supreme Court came to a conclusion that such reservation is impermissible since the minority schools have a right to appoint persons compatible with their institution and culture so that their right to conserve their socio-economic-cultural character is not violated. Thus the observations in paragraph 87 and 119 in the said decision have to be viewed in that context. In *Kumkum Khanna(Supra)* it was held that "though the office of

the Principal can exist outside a statute, it becomes a statutory office when the college is admitted to the privileges of the University. This is why such a college and its Principal have been defined in Clause (a) and (d) of Section 2 of the Delhi University Act. Even if the office of the Principal is not regarded statutory in the sense that it is created by a statute, it is a public office because the powers and duties of the Principal relate to a large section of the public, namely, the students of the college. There is no private or contractual relationship between the students and the Principal". It was further held that "in the present case, the Principal is a statutory authority in the sense that here is a public office recognized and governed by the Delhi University Act 1922 and ordinance confers statutory powers on the hold of that office". Consequently, it was held that "the Principal of Jesus & Mary College is a person or authority (i.e. a public authority) within the meaning of Article 226 of the Constitution and the writ petitions are maintainable in respect of the exercise of the statutory power and discretion and the performance of statutory duties by her".

9. In view of the above in my opinion the writ of quo warranto is clearly maintainable in respect of St. Stephen's College and consequently the present writ petition ought to be heard and adjudicated on merits and not on preliminary objections.

10. Before coming to the merits of the other rival contentions it would be relevant and necessary to extract the relevant provisions of Ordinances of the University of Delhi that are attracted for the appointment to the post of Principal:-

#### 1. Definition of Principal

S. 2(d)-"Principal" means the head of a College; and includes when there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such;

#### 2. Ord. XII- College Appointed Teachers

1. In this Ordinance, unless the context otherwise requires, a teacher includes a Principal of a College.

1-A. Every whole-time teacher shall be engaged by a College as a member of its staff on salaries in the scales prescribed by the University for the various categories of its teachers.

2. No whole-time teacher shall be engaged by any College as a member of its staff except on an Agreement of Service in the form annexed hereto or an agreement substantially to like effect and every teacher shall sign the Agreement before he enters upon his duties.

2-A. Promotion of College Appointed teachers (including Directors of Physical Education) under the Merit Promotion Scheme of 1987 as accepted by the Executive Council, shall be made in accordance with the eligibility conditions and

in the manner prescribed in this scheme in this behalf.

2-B. Promotion of College Appointed Lecturers as Lecturers in Senior Scale/Reader's Grade (Selection Grade/Readers/Professors) shall be made under the Merit Promotion Schemes as accepted by the Executive Council, in accordance with the eligibility conditions under the relevant scheme.

3. (1) All vacancies of teachers shall be filled after advertisement and by open recruitment, save in the cases of vacancies, appointment to which may be required to be made urgently in the interest of organisation of teaching in the college concerned for a period not exceeding four months or beyond the term in which it is made whichever is earlier.

(2) A temporary appointment of a teacher may be made against a post sanctioned for a specified period or in the leave vacancy of another teacher; the said appointment may be terminated after the expiry of that period or on such teacher resuming duty after the expiry of his leave, as the case may be. Each temporary appointment shall be reported to the University as soon as it is made.

(3) (a) The temporary appointment of a teacher shall not be made to terminate before the end of the term in which it is made or continued; and

(b) If a teacher has been in service in a College or Department of the University on or before the first day of its re-opening in the second term and has continued to be in service without any break till the end of the third term in any College or Department of the University he shall be entitled to an ex-gratia payment equivalent to the amount of emoluments he would have received had his appointment continued till the end of the long vacation, if he is not holding any salaried post elsewhere during the period. Such ex-gratia payment shall be made by the College or the University, as the case may be, in which the teacher was in service immediately preceding the end of the third term.

(4) A teacher who has been in service up to the last day of the preceding session/term shall be entitled to vacation salary provided he has been reappointed and is in position on the reopening day after the vacation. In such cases the vacations will not constitute a break in service.

3-A. (1) Subject to the provision of clauses 6,7 and 8 of the Agreement of Service, a person appointed permanently as Principal of a College or Institution or as a teacher therein shall be entitled to be in the service of that College or Institution until he/she completes the age of sixty two.

(2) The Governing Body of a College or an Institution may, with the approval of the Vice-Chancellor, re-employ any distinguished teacher after he/she has attained the age of 62 years for a period not exceeding 3 years on the whole but not beyond his/her completing the age of 65 years, if the Governing Body is satisfied that such re-employment is in the interest of the College or Institution.

(3) Subject to the provisions of sub-clause (2), the terms and conditions of

service of a re-employed teacher including his/her salary, leave and other benefits admissible to him/her will be in accordance with the rules prescribed by the Govt. of India from time to time.

Explanation :- A Principal who has been a distinguished teacher may also be re-employed under the provisions of this Clause.

4. No deduction of any kind shall be made from the salary of a teacher except that -

(a) where a teacher contributes to a duly established Provident Fund, the rules whereof have been approved by the University, his contributions to that Fund at the prescribed rate may be deducted from his salary each month.

(b) where a teacher occupies a house or other dwelling accommodation provided by a College, the amount of the rent of that house or other dwelling accommodation may be deducted from his salary each month, but where the teacher is required to occupy the house or other dwelling accommodation as part of the term of his engagement the amount of rent payable shall not exceed one-tenth of his monthly salary.

(c) where a teacher agrees for certain deductions like refund of advances taken from Provident Fund, electricity and water charges in respect of a house occupied by him and provided by a College or where any deductions are required to be made under any law or by an order of the Court, such deductions might also be made.

5. No teacher shall be required to contribute directly, or indirectly to the funds of his college except that a teacher may, if he so desires, contribute voluntarily to any sports fund or literary society of the College, or to any fund in aid of poor students of the College:

Provided that all voluntary contributions by teachers to any sports fund, literary society or fund in aid of poor students as aforesaid shall be reported by the College to the University.

6. Notwithstanding anything contained in any other Ordinance, where a Principal or a teacher is placed under suspension, with the prior approval of the Vice-Chancellor or under Ordinance XIII-A, he shall during the period of his suspension be disabled from exercising any rights, duties or privileges attached to the membership of the Governing Body or any Committee of the College of which he may be a member.

7. Notwithstanding anything contained in this Ordinance, a teacher who is placed under suspension shall, during the period of his suspension, be entitled to only subsistence allowance in accordance with the rules applicable to Government employees.

3. Ord. XVIII.



Clause 7.(1) The appointment of the Principal and other members of teaching staff shall be made after advertisement.

The Principal should, in addition to his duties as Principal, be also required to undertake some teaching work in the College, or the University.

#### 4. Ord. XXIV

##### Qualification of Lecturer

1. Good academic record with at least 55% (50% for candidates belonging to SC/ST or those who passed their Master's degree prior to 19.09.91 and hold a Ph.D. degree) or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E & F at the Master's degree level in the relevant subject from an Indian University or an equivalent degree from a foreign University.
2. Candidates should have qualified the National Eligibility Test (NET) for Lecturers conducted by the UGC/CSIR or similar test accredited by the UGC.

##### Qualification of Principal

1. A Master's degree in a relevant subject with at least 55% marks or an equivalent grade of 'B' in the seven point scale with letter grade O, A, B, C, D, E & F
2. Ph.D. or equivalent degree.
3. Total experience of fifteen years of teaching and/or post-doctoral research in Universities/Colleges and other institutions of higher education.

Note: The minimum requirement of 55% shall not be insisted upon for the post of Principal for existing teachers who are already in the University system. But in no case would this be less than 50%. However, these marks should be insisted upon for those entering the system from outside.

11. Before proceeding further, it would be necessary to extract the correspondence exchanged between the parties, elucidating upon the qualifications necessary for appointment to the post of Principal of St. Stephen's College.

1. Letter dated 2nd/3rd June, 2009 addressed by the Assistant Registrar & PIO of the Delhi University to Mr. Ashish Joshi the RTI Applicant reads as under:-

No. Info/OA/496/2009/9674 Dated:2nd /3rd June, 2009

To

Sh. Ashish Joshi J-8-1, MS Flats, Sector-13, R.K. Puram, New Delhi-110066.

Subject: Original Application (OA) No. 496 of 2009 under the Right to Information Act, 2005.

Sir,

In continuation of this office letter of even No. dated 5th May, 2009, the following points are clarified:

Point(c) of the OA: The University Grants Commission vide its Notification dated 14th June, 2006 amended its Regulations of 2000 regarding minimum qualifications required for the appointment and career advancements of teachers in Universities and affiliated colleges. According to the amended Regulations, the National Eligibility Test (NET) is the compulsory requirement of appointment as Lecturer for those with postgraduate degree. The candidates having Ph.D. Degree in the concerned subject are exempted from NET for PG Level and UG Level Teaching. The candidates having M.Phil Degree in the concerned subject are exempted from NET for UG level Teaching only. The said amendment to Regulations was reported to the Executive Council of the University in its meeting held on 23rd June, 2006 and the same was circulated to the Colleges vide Circular dated 29th June, 2006. It is clear from the above that requirement of qualifying the National Eligibility Test is required for appointment as Lecturers only and not for other teaching posts such as Professor, Reader and Principal of Colleges.

Point (g) of the OA: The Ordinances XXIV of the Ordinances of the University provides the eligibility conditions for the post of Principal of a College and a Ph.D. or equivalent Degree is one of them. It is nowhere mentioned in the Ordinance that Ph.D Degree should be in a relevant subject.

Yours faithfully (Jay Chanda) Assistant Registrar & PIO

2. Letter dated 3rd June 2009 from the Under Secretary, University Grants Commissioner to Dr.Valson Thampu, Principal (respondent No. 5) reads as under:-

University Grants Commission Bahadur Shah Zafar Marg New Delhi 110002

No. F.1-4/2008(PS)

3rd June, 2009

Rev. Dr. Valson Thampu, Principal, St. Stephen's College, Delhi-110007

Subject: Misleading information provided by Delhi University and adverse media report in Hindustan Times of 2.6.2009.

Sir,

With reference to your letter dated the 3rd June, 2009 on the subject cited above, I am directed to inform you that as per UGC Regulations 2000 regarding Minimum qualifications for appointment to the post of Principal under Direct Recruitment are as under:-

1.1.0 Principal (Professor's Grade)

1. A Master's Degree with at least 55% of the marks or its equivalent grade of B

in the 7 point scale with latter grades O,A,B,C,D,E and F.

2. Ph.D. or equivalent published work.

3. Total experience of 15 years of teaching/Research in Universities/Colleges and other institutions of higher education.

1.2.0. Principal (Reader's Grade)

1. A Master's Degree with at least 55% of the marks or its equivalent grade of B in the 7 point scale with latter grades O,A,B,C,D,E and F.

2. Ph.D. or equivalent published work.

3. Total experience of 10 years of teaching/Research in Universities/Colleges and other institutions of higher education."

NET and M.Phil are not prescribed as requirements for the post of Principal but as per UGC Regulation NET is one of the minimum requirements for the post of Lecturer (now Assistant Professor) and not for the post of Principal.

Yours faithfully, (Shashi Munjal) Under Secretary

Copy to:-

1. The Registrar, University of Delhi, Delhi-110007.

2. The Editor, Hindustan Times with reference to their article published on 2nd June, 2009. Our Regulations are available on the website and your reporter should have verified the same before publication.

(Shashi Munjal) Under Secretary

3. Letter dated 28th April, 2008 from University Grants Commission to the Vice Chancellor, Allahabad Agricultural Institute-Deemed University, reads as under:-

UNIVERSITY GRANTS COMMISSION BAHADUR SHAH ZAFAR MARG NEW DELHI-110 002.

No. F.1-5/2007[CPP-II]

April 28th, 2008

To,

The Vice Chancellor,

Allahabad Agricultural Institute - Deemed University, Allahabad-211007, Uttar Pradesh.

Subject:- Clarification regarding the status of "Ph.D. Degree in Theology" awarded by the Allahabad Agricultural Institute.

Sir,

I am directed to refer to you letter No. VC-19-A/UGC/RVT/2008 dated 12.04.2008 regarding the status of Ph.D. Degree [Ph.D. in theology] awarded by the Allahabad Agriculture Institute, Allahabad. The matter was examined with the help of an expert committee by the Commission.

Under section 22(1) of U.G.C. Act, 1956, the Deemed Universities are empowered to award degrees and being an autonomous organization in the academic matters they can offer courses leading to degrees specified by the UGC with help of their Academic Council, Board of Studies, Senate, Syndicate, etc. Further, the Deputy Educational Advisor, Ministry of Human Resource Development vide his D.O. No. F. 20-71/2005-U.3 dated 21.12.2005 has clarified that in terms of the provision under article 30 (I) of the constitution of India, you university being a minority institution may conduct its theology courses in whatever mode it wants to as it has the right to do so. Subsequently, the Commission also issued clarification vide D.O. letter No. F.6-1(II)/2006 (CPP-I) dated 15th July, 2006 regarding starting of courses of study leading to award of degrees as specified and notified u/s 22(3) of the UGC Act, 1956, in which it was clarified that for the purpose of offering general courses in Sciences, Social Studies & Humanities, Institutions Deemed to be University are at par with the State & Central Universities mentioned in section 2(f) of the UGC Act, 1956 and no prior approval of the Commission would be mandatory to start such general courses.

Therefore, keeping in view the recommendations made by the expert committee, approved by the competent authority, this is to inform you that the Ph.D. is a degree specified by the UGC u/s 22 of the UGC Act, 1956. Accordingly, the Allahabad Agriculture Institute, Allahabad, a Deemed to be University u/s 3 of the UGC Act, 1956, is entitled to award "Ph.D. in theology" and the degree of "Ph.D. in theology" awarded by it, is a valid degree.

Yours sincerely, [A.K. DOGRA] Joint Secretary,

Copy in supersession of all communication to the following along with copies of the letters mentioned above:-

[1] The Principal, St. Stephens college, New Delhi-110007.

[2] The Chairman, Governing Board, St. Stephens college, New Delhi-110007.

[3] Dr. Valson Thampu, Former OSD[Principal], St. Stephens college, New Delhi-110007.

[A.K. DOGRA] Joint Secretary,

4. Letter dated 26th May, 2008 from University Grants Commission to Rev. Dr. Valson Thampu, respondent No. 5 herein, reads as under:-

UNIVERSITY GRANTS COMMISSION BAHADUR SHAH ZAFAR MARG NEW DELHI-110 002

D.O. No. F.25-9/2008(CU)

26th May, 2008

Dear Revd. Dr. Thampu,

Kindly refer to your letter of 15th May, 2008 seeking clarification regarding the eligibility criteria for the post of Principal as per UGC's Regulations. In this regard, I am to inform you that as per UGC's Regulations 2000 regarding Minimum Qualification for Appointment which were circulated to all the Universities vide UGC letter No. F.3-1/2000(PS) dated 4th April 2000, the Minimum Qualification for Direct Recruitment of the Principal are as under:-

Director Recruitment:-

1. A Master's Degree with at least 55% of the marks or its equivalent grade of B in the 7 point scale with latter grades O,A,B,C,D,E and F.
2. Ph.D. or equivalent published work.
3. Total experience of 15 years of teaching/Research in Universities/Colleges and other institutions of higher education.

Principal (Reader's Grade)

1. A Master's Degree with at least 55% of the marks or its equivalent grade of B in the 7 point scale with latter grades O,A,B,C,D,E and F.
2. Ph.D. or equivalent published work.
3. Total experience of 10 years of teaching/Research in Universities/Colleges and other institutions of higher education.

A copy of the above said UGC's Regulation is also enclosed herewith for your ready reference.

It may be observed from the above that there is no requirement of relevant subject in Ph.D.

With regards

(Surender Singh)

The Revd. Dr. Valson Thampu G3 Admn. Block St. Stephen's Hospital Tis Hazari, Delhi-110054.

12. Now coming to the contentions raised on behalf of the petitioner, predicated on the purported lack of qualifications of respondent No. 5 for the post of Principal, it is observed as follows: The qualification for the post of Principal as per Ordinance XXIV of Delhi University Ordinances has been extracted hereinabove. In this behalf it is noticed that the respondent No. 5 has a First Class Master's Degree in a relevant subject (English Literature) and has taught for 30 years in St. Stephen's College. Consequently his ability to teach is not in

doubt. Even, according to the petitioner, the respondent No. 5 fulfils the aforesaid qualifications laid down in Ordinance XXIV. However, according to the petitioner the respondent No. 5 is not eligible as he does not have a Ph.D. in a relevant subject which is necessary for appointment as Lecturer.

13. The qualification for the post of Lecturer is provided in Ordinance XXIV which stipulates that for the post of Lecturer the candidate should have passed Master's degree in the relevant subject with 55% marks and should have qualified NET conducted by the UGC. However, general note to the clause clarifies that NET is not compulsory for the candidates who holds a Ph.D. degree in a relevant subject. Resultantly, it is observed that Ph.D. is not compulsory even for the post of Lecturer and that Ph.D. is only an alternate qualification. According to the Delhi University/UGC Ph.D. is not an essential qualification to teach. A Master's degree and NET suffices. It is axiomatic that the purpose of NET which is an eligibility condition required only for entry level teaching position of a Lecturer is a requirement for entry level position of lecturers where their credentials as teachers have not been established through track record. Therefore, it is noticed that since NET is not a requirement for the post of Principal the condition of Ph.D. or M.Phil. in a relevant discipline that gives exemption from NET for the post of Lecturer has no applicability in interpreting the eligibility requirements for the post of a Principal.

14. The Principal, it is observed, is not a "Lecturer" but the chief administrator of a college. Besides his administrative duties the Principal is also required "to do some teaching". Here it is observed that the petitioner is trying to confuse the issue by treating "teacher" and "lecturer" as synonyms and by making the erroneous assertion that the eligibility conditions for appointment as lecturer are conditions to be satisfied by Principal as well. It is observed that there is nothing in the Ordinance or in the Note for the post of Principal that requires a candidate for that post to also fulfill the qualification of a Lecturer.

15. The petitioner has relied upon Clause 7(1) of Ordinance XVIII to urge that the Principal should possess a Ph.D. in a relevant subject. It is, however, my view that the wording of Clause 7(1) does not in any manner require Principal to fulfill the qualifications for the post of Lecturer. Any amendment to the qualifications for the post of Lecturer does not in any manner affect the teaching skills of the respondent No. 5. The above Ordinance does not in any manner alter or modify the qualifications for the post of Principal. The requirement that the Principal has to do some teaching work does not mean that the Principal has to fulfill the qualifications for the post of Lecturer.

16. Ordinance XXIV of Delhi University Ordinances lays down the qualifications for different posts such as Lecturer, Reader, Professor and Principal. It is observed that the word "relevant subject" is required only for the post-graduate degree and not for Ph.D. The qualification and experience for teaching is taken care of by providing that the candidate for the post of Principal should have a Master's degree in relevant subject and 15 years teaching experience. The

requirement of Ph.D. is to ensure that the incumbent has attained some academic stature and standing among teachers. What is relevant for the post of Principal is to possess a Ph.D. in any subject provided it is a valid degree. The UGC has in the present case clearly professed that the degree of Ph.D. possessed of by the respondent No. 5 is a valid degree. Further it is observed that the UGC and the University have very clearly stated in their communications abovementioned as follows:- (a) NET and M.Phil are not prescribed as requirements for the post of Principal but as per UGC Regulation NET is one of the minimum requirements for the post of Lecturer and not for the post of Principal. (b) Based on the findings of an expert committee, the UGC has clarified that, the Ph.D. degree issued by the Allahabad Agricultural University is a valid degree. (c) The requirement of relevant subject in Ph.D. for the purpose of fulfilling the eligibility requirement for the post of Principal is non-existent. (d) UGC has taken a categorical stand in its counter affidavit that the Allahabad Agricultural University is entitled to award Ph.D. in Theology.

17. From the above it is evident that NET is a requirement only for appointment to the post of Lecturer and is not required for the post of Principal and further that a candidate to be eligible for the post of Principal only needs to have a Ph.D. Degree and that too not in a subject taught in the college or University.

18. Furthermore, under Clause 7(1) of Ordinance XVIII it is clear that the main function of the Principal is not to teach and that the Principal is required to undertake some teaching work in college or University in addition to performing his duties as Principal. From a plain reading of the said Ordinance it is obvious that teaching is a minuscule part of the work that a Principal is required to do. The principal function of a Principal is administrative work.

19. It is further noted that, it is also a well settled principle of law that, courts should leave the decisions on academic matters to experts who are more familiar with the problems faced. In this behalf the Supreme Court while following its earlier decision of the Constitution Bench in *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, has held in *Tariq Islam Vs. Aligarh Muslim University and Others*, that "normally it is wise and safe for the courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the courts generally are". Similar view has been expressed in several decisions in *Dr. Uma Kant Vs. Dr. Bhika Lal Jain and others*, *Bhushan Uttam Khare Vs. The Dean, B.J. Medical College and others*, *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, *P.M. Bhargava and Others Vs. University Grants Commission and Another*, *Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others*, ; *Varanasaya Sanskrit Vishwavidyalaya and Another Vs. Dr. Rajkishore Tripathi and Another*, *Medical Council of India Vs. Sarang and Others*, and *Bhagwan Singh and Another Vs. State of Punjab and Others*,

20. With regard to the scope of judicial review in academic matters it would also be relevant to consider the applicable case law as cited by the petitioner.

21. In *S. Bala Bawa Vs. University of Delhi*, the Supreme Court stressed on the significance of relevant subject. In this case the petitioner who did not possess a Master's degree in the relevant subject was not selected for the post of Principal. The petitioner challenged it on the ground that relevant subject need not be taught in the college. In this context it was held that relevant subject in Master's degree means a subject taught in the college and that Principal is primarily concerned with the administrative work of the college and that if they are able to find time for teaching work they can take few classes in the college itself. Thus, in this case the Supreme Court did not interfere with the impugned decision of the University as the said decision was taken in the interest of the concerned college and did not warrant interference. It is, however, pertinent to note that the said decision dealt with an issue as to whether the candidate for the post of Principal had a Master's degree in the relevant subject. The court had no occasion to deal with the question as to whether the court can suffix "relevant subject" after Ph.D. In the present case admittedly respondent No. 5 holds a postgraduate degree in English which is a subject taught in St. Stephen's College.

22. In *Dr. Rajbir Singh Dalal Vs. Chaudhari Devi Lal University, Sirsa and Another*, the Supreme Court held that the words "relevant subject" must be read into a section of the UGC Act where the same has not been expressly specified. In this decision it is noticed that the appellant who had a postgraduate degree and Ph.D. in Political Science was appointed as Reader in Public Administration. The High Court held that the appellant was not eligible. However, the Supreme Court reversed it. The Supreme Court held that the Master's degree could be in a relevant subject as otherwise a person who had M.A. degree in Music or History would be qualified to be appointed as reader in Political Science. Pertinently, the Court held that it should not sit in appeal over the opinion of the UGC which is an expert body and take a contrary view. In the present case also it is observed that experts such as the UGC and Delhi University have expressed the view that Ph.D. need not be in a relevant subject and as such courts ought not to sit in appeal over it and take a contrary view.

23. In *St. Stephen's College etc., etc. Vs. The University of Delhi Etc., Etc.*, it was held by the Supreme Court that minority educational institutions have to comply with the qualification stipulation laid down by the regulatory authorities. In this case the Supreme Court approved the religious instruction in the Christian Gospel for religious assembly in the morning in the college for the purpose of granting minority status to St. Stephen's College. Further the Supreme Court also noted the difference between Principal of St. Stephen's College and all other colleges.

24. Lastly, coming to the prayer in the petition that, the Ph.D. degree of respondent No. 5 is not valid, it is reiterated as mentioned at the outset that, there are no pleadings anywhere in the facts or grounds questioning the Ph.D. degree awarded to the respondent No. 5 by the Allahabad Agricultural University.



Further, the Allahabad Agricultural University which would have been the appropriate authority to refute this assertion has not even been made a party before this Court. Furthermore, this issue stands concluded by the clarification given by the UGC, to the effect that the Ph.D. degree awarded by the Allahabad Agricultural University is a valid degree.

25. In view of the foregoing discussion and the facts and circumstances of the present case, the writ petition does not warrant any interference. The decision taken by the experts, namely the UGC and the Delhi University, to the effect that the respondent No. 5 possesses essential qualifications, for the post of Principal of St. Stephen's College, is a decision which in my view ought to be left to experts rather than to courts. In view of the foregoing I find no merit in the present petition which is hereby dismissed.