

(2010) 12 MAD CK 0087

In the Madras High Court

Case No : Writ Appeal No's. 893, 894, 900 to 902, 922, 928, 929, 930 to 933, 942 to 944, 945 and 1032 of 2010 and Writ Petition No's. 12171, 12172, 12174 to 12176, 11202 to 11204, 12037 to 12044, 12104, 12105, 11789, 11796, 12334 to 12336, 12338, 12339, 27083, 13

P. Suseela and Others

APPELLANT

Vs

University Grants Commission.and TheTeachers Recruitment Board and Others etc.etc.

RESPONDENT

Date of Decision : 06-12-2010

Acts Referred:

University Grants Commission Act, 1956 — Section 10, 11, 12A(2), 12A(4), 20(1)

Citation : (2011) 2 CTC 593 : (2011) WritLR 1

Hon'ble Judges : M.Y. Eqbal, C.J.;T.S. Sivagnanam, J

Bench : Division Bench

Advocate : Nalini Chidambaram, for the Appellant; R. Krishnamoorthy, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, C.J. and T.S. Sivagnanam, J.—The Hon"ble Chief Justice & T.S. Sivagnanam, J These appeals have been filed against the

common judgment and order dated 22.04.2010 passed in a batch of writ petitions, whereby the learned single Judge dismissed all the writ

petitions holding that the Petitioners/Appellants are not entitled to the relief sought for by them.

2. Since, common questions of law and facts are involved in these appeals they had been heard together and are disposed of by this common order.

3. In W.P. No. 7116 of 2010, and W.P. Nos. 7580, 7759, 8034, 8037, 8077/2010 the Petitioners/Appellants prayed for a writ of mandamus to

forbear the Respondents from insisting on National Entrance Test/State Level Entrance Test (in short NET/SLET) qualification for candidates who have passed M. Phil prior to 1993 for being eligible to apply for the post of Assistant Professors in Tamil Nadu Collegiate Educational Service, and consequently, direct the Respondents to entertain the application of the Petitioners for the post of Assistant Professor pursuant to the notice dated 29.03.2010 without imposing the condition of requirement of NET/SLET qualification.

4. In some writ petitions prayer was made for declaration declaring the University Grants Commission (Minimum Qualifications Required for Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) Regulations, 2009 as notified on 11.07.2009 is arbitrary and violative of Articles 14 and 16 of the Constitution of India in so far as NET/SLET made minimum qualification for Lecturer Post without giving special exemption for the candidates who got their M. Phil degrees prior to 31.12.1993.

5. In some of the writ petitions prayer was made for the issuance of a writ of mandamus to call for the records relating to the Governmental Orders in G.O. Ms. No. 412, Higher Education (F2) Department dated 07.12.2009 and quash the same in so far as the said Governmental Order does not award 9 marks to the candidates who have completed only M. Phil degree and consequently direct the Respondents to award 9 marks to the Petitioners therein who have completed their M. Phil Degrees in the concerned subject prior to 1993 while processing their applications for the post of Assistant Professor.

6. The Appellants/writ Petitioners' case in brief is that in the UGC (Qualification Required of a Person to be appointed to the Teaching Staff of a University and Institutions Affiliated to it) Regulations, 1982 (in short "1982 Regulations"), which came into force on 01.07.1983, the qualification of NET/SLET was not introduced as a necessary qualification for the appointment to the post of lecturer. For the first time in the year 1989 the University Grants Commission on the basis of the recommendations made by R.C. Mehrotra Committee and the Vice Chancellors' Conference held in 1989 decided to hold comprehensive National Test to decide the eligibility for the post of lecturer. However in the year 1990, it is stated

that by proceedings dated 01.08.1990 the University of Madras took a decision that the candidates who have completed M. Phil Degree up to the year 1992 are exempted from SLET. In 1991 the University Grants Commission (Minimum Qualifications Required for Appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it) Regulations, 1991 (hereinafter referred to as "1991 Regulations") was framed. On the basis of the 1991 Regulations the UGC decided that the candidates must clear the eligibility test for appointment to the post of Lecturer. The said Regulations viz., 1991 Regulations were also upheld by the Supreme Court.

7. On 10.02.1993 the UGC granted exemption to those candidates, who have already awarded M. Phil degree upto 31 st March, 1991 and those candidates, who will submit their Ph.D. thesis before 31 st December, 1993, from appearing NET. The UGC by its circular dated 15.06.1993 further extended the date from 31.03.1991 to 31.12.1992 in respect of M. Phil candidates. On 04.04.2000 amendment to "1991 Regulations was issued, which stated that "NET shall remain the compulsory requirement for appointment as lecturer even for candidates having Ph.D. degree. However, the candidates who have completed M. Phil degree or have submitted Ph.D. thesis in the concerned subject upto 31 st December, 1993 are exempted from appearing in the NET examination". Later the exemption was further modified to the effect that Ph.D. candidates upto the year 2002 were also granted exemption from NET/SLET. The Appellants completed their M. Phil Degrees before 31.12.1993.

8. On 11.06.2006 the University Grants Commission in its 428 th meeting resolved that "NET shall remain compulsory requirement for appointment as Lecturer even for those with post graduate degree. However, the candidates having Ph.D. Degree in the concerned subject are exempted from NET for P.G. Level and U.G. Level teaching. The candidates having M. Phil Degree in the concerned subject are exempted from NET for UG Level teaching only".

9. On 14.06.2006 UGC (Minimum Qualifications Required for Appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it) (2nd Amendment), Regulations 2006 was issued amending the provision with regard to NET qualification in the Regulations, 2002

wherein it is stated as follows:

NET shall remain compulsory requirement for appointment as Lecturer for those with post graduate degree. However, the candidates having Ph.D.

Degree in the concerned subject are exempted from NET for P.G. Level and U.G. Level teaching. The candidates having M. Phil Degree in the

concerned subject are exempted from NET for UG Level teaching only

10. On 05.07.2006 G.O. Ms. No. 197, Higher Education Department, was issued by the State Government for recruitment of Lecturers in

Government Arts and Science Colleges. The holders of NET/SLET qualification filed W.P. No. 21345 of 2006 challenging the 14.06.2006

amendment to the Regulations. The said writ petition was ultimately dismissed. In the subsequent writ petition viz., W.P. No. 32958 of 2006, while

dismissing the writ petition on 24.03.2007, the Court further added that the M. Phil holders of pre 31.12.1993 can also be equated with M. Phil

holders with NET/SLET in order to gain the weightage marks of 6.

11. On 21.07.2008 the University Grants Commission in its 449 th meeting held on 21.07.2008 considered the Final Report of the NET Review

Committee and the Reports of the UGC Pay Review Committee resolved that the candidates, who are already registered for M. Phil and

completed the same up to 30 th June, 2009 be exempted from NET for UG teaching. However, NET/SLET shall be compulsory for the

candidates completing their M. Phil on or after 1 st July, 2009

12. On 12.11.2008 a Policy Direction was issued by the Department of Higher Education, Ministry of Human Resource Development,

Government of India u/s 20(1) of the UGC Act, 1956 which reads as follows:

(1) The UGC shall, for serving the national purpose of maintaining standards of higher education, frame appropriate

regulations within a period of thirty days from the date of issue of this order prescribing that qualifying in NET/SLET shall generally be compulsory for all

persons appointed to teaching positions of Lecturer/Assistant Professor in Higher Education, and only persons who possess degree of Ph.D. after

having been enrolled/admitted to a programme notified by a Commission, after it has satisfied itself on the basis of expert opinion, as to be or have

always been in conformity with the procedure of standardization of Ph.D. prescribed by it, and also that the degree of Ph.D. was awarded by a

University or Institution Deemed to be University notified by the UGC as having already complied with the procedure prescribed under the regulations framed by the Commission for the purpose.

(2) The UGC shall notify the date or dates from which exemption from qualifying in NET/SLET in respect of Universities/Institutions Deemed to be

Universities as well as the discipline for which such exemption is being granted only on the recommendations of a Committee of Experts to be

constituted by the Commission and that the experts therein shall be persons of high eminence in the respective disciplines for which the persons

possessing Ph.D. are considered for exemption from qualifying NET/SLET.

(3).....

13. University Grants Commission (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities

and Institutions Affiliated to it) 3rd Amendment Regulations, 2009 was issued on 11.07.2009 amending Regulation 2006, wherein it has been

stated as follows:

NET/SLET shall remain the minimum eligibility condition for recruitment for appointment of Lecturers in Universities/Colleges/Institutions.

14. The Higher Education (F2) Department, Government of Tamil Nadu issued G.O. Ms. No. 412 dated 07.12.2009 awarding 6 marks for M.

Phil with NET/SLET or M. Phil prior to 31.12.1993 for selection of Lecturers in Government Arts and Science Colleges.

15. On 29.03.2010 the Teachers Recruitment Board called for applications for direct recruitment for the post of Assistant Professor in Tamil

Nadu Collegiate Educations Service prescribing the following educational qualification.

EDUCATIONAL QUALIFICATION:

(a) All candidates other than SC/ST: Pass in Post Graduate Degree in the relevant subject with a minimum of 55% marks and a pass in the

UGC/CSIR/JRF/NET/SLET in therelevantsubject.

(or)

Pass in Post Graduate Degree in the relevant subject with a minimum of 55% marks and Ph.D. in the relevant subject.

(b) For SC/ST candidates and all physically handicapped candidates: Pass in Post

Graduate Degree in the relevant subject with a minimum of 50%

marks and a pass in the UGC/CSIR/JRF/NET/SLET /SLST in the relevant subject.

16. Aggrieved by the qualification fixed for the post of Assistant Professors and the removal of the exemption for pre 31.12.1993 M. Phil

candidates from NET/SLET qualification for appointment to the post of Assistant Professor, the Appellants/writ Petitioners filed the above batch

of writ petitions, which were ultimately dismissed by the learned single Judge. Hence, the present appeals.

17. The learned single Judge, after considering the entire facts of the case and the regulations framed from time to time by the University Grants

Commission came to the conclusion that a group of persons like the Petitioners having no minimum qualification as per the 2009 Regulations, are

not entitled for exemption and that too by the order of the Board. Hence, these appeals.

18. We have heard Mrs Nalini Chidambaram, learned senior counsel appearing for the Appellants and some of the writ Petitioners, Mr. R.

Subramanian, Mr. B.S. Sundamoorthi, Mr. M.V. Krishnan, Mr. V. Sanjeevi, Mr. A. Jenaseenan, learned Counsel appearing for the respective writ

Petitioners and Mr. M. Ravindran, learned Additional Solicitor General, appearing for the Union of India, Mr. R. Krishanmoorthy, learned senior

counsel appearing for University Grants Commission and Mr. P. Wilson, learned Additional Advocate General appearing for the State.

19. Learned Counsel for the respective Appellants submitted that the learned single Judge misconstrued the scope of the writ petitions filed before

this Court, which is evident from the fact that when the substantial question of law is as to whether the amendment of the Minimum Qualification

Regulations, 2009, dated 11 th July, 2009, is arbitrary and violative of Articles 14 and 16 of the Constitution, learned Judge dismissed the writ

petitions without even awaiting the submissions of the UGC when on the date of hearing on 21 st April, 2010, the counsel for the UGC without

making any submissions merely asked for four weeks time to get instructions. It was further submitted that the learned Judge ought to have held

that the amendment published in the gazette dated 11 th July, 2009 which imposed qualification for Lecturers in Universities that requiring

NET/SLET qualification as mandatory for appointment of lecturers in Universities/

Colleges/Institutions is illegal insofar as the said amendment has been made without giving any exemption to the candidates who have completed their M. Phil degree prior to December, 1993. Further argument was advanced that the sudden withdrawal of the exemption from possessing NET/SLET qualification granted to those candidates who have completed M. Phil Degree prior to 1993 and who have been availing exemption till date tantamount to arbitrariness and is a miscarriage of justice.

20. Learned Counsel for the Appellants placed reliance on the last call notice issued by the Bharathiar University dated 16 th June, 2009, calling for applications for SLET exam, wherein the exemption was given to the candidates, who have passed their M. Phil degree by 31 st December, 1993 (or) who have submitted their Ph.D. thesis to a University on or before 31 st December, 2002.

21. Learned Counsel for the Appellants further contended that when the long standing exemption availed by the Appellants was withdrawn, the Appellants were not even given an opportunity to attempt the NET/SLET examination as no NET/SLET examination was conducted between 11 th July, 2009 (date of amendment of the Minimum Qualification Regulations) and 29 th March, 2010 (date of calling of applications by the Teachers Recruitment Board). Therefore in the process of withdrawing the exemptions, which was available to the Appellants for a long period, the principles of fairness and equity have been completely compromised as a result of which the Appellants have been deprived of the opportunity of applying for recruitment as Assistant Professor in Government Colleges. It was further submitted that though the Appellants had a reasonable opportunity to appear in the examinations in June, 2006, they were led to believe that they were exempted from acquiring NET/SLET qualification.

It was also brought to the notice of the Court that candidates who had completed M. Phil qualification by 1993, though they applied for the examination, their applications were returned by the Bharathiar University on account of the exemption provision as shown in the call notice. It was also submitted that while the exemption from NET/SLET qualification was founded on sound reason, the sudden withdrawal of exemption was done without any reason or logic as is evident from G.O. Ms. No. 350 of the Higher Education Department. The grant of exemption from

NET/SLET for persons who have passed M. Phil Degree prior to 1993 was based on the reason that prior to 1993, the curriculum mandated the candidates to complete two project papers, whereas after 1993, it was reduced to one project paper. The above reason for exemption was lost sight of by learned single Judge. It was also submitted that the exercise of administrative power should be based on valid and informed reasons and cannot be based on whims and caprices of the public authority. It was also submitted that merely because UGC has power to fix the minimum qualification for recruitment to Government Colleges, the earlier exemption from NET/SLET for candidates, who had passed M. Phil prior to 31 st Dec., 1993, cannot be withdrawn without any rhyme or reason. The denial of the longstanding exemption has suddenly rendered the Appellants ineligible to apply for the post of Assistant Professors in the Tamil Nadu Collegiate Educational Service. Thus, the arbitrary, sudden and unreasoned amendment to the UGC Minimum Qualification Regulations is violative of Articles 14 and 16 of the Constitution and against the doctrine of legitimate expectation.

22. Learned Counsel placed heavy reliance on the decision of the Supreme Court in the case of University Grants Commission v. Sadhana

Chaudhary and Ors.. Etc reported in JT 1996 (8)SC 234. According to the learned Counsel, the impugned Regulation should not operate to the

prejudice of persons, who having regard to the qualifications prescribed in the earlier Regulations, had registered for the Ph.D Degree or had

joined study for M. Phil. degree course. Inasmuch for that reason provision was made for granting exemption to such candidates with the condition

that they should have passed M. Phil. examination or should have submitted Ph.D. thesis by a particular date. Learned Counsel submitted that the

Petitioners constitute a distinct class, who could be treated separately insofar as the requirement of clearing the eligibility test is concerned. Learned

Counsel submitted that on the basis of the ratio decided in the aforesaid judgment, the impugned Regulation on the decision of the Ministry of

Human Resources Department, Government of India is violative of Right to Equality enshrined in Article 14 of the Constitution of India.

23. Last, but not the least, learned Counsel appearing for the respective Appellants and writ Petitioners have drawn our attention to the relevant

provisions of the University Grants Commission Act (in short "UGC Act") and submitted that in no case, the impugned Regulation followed by

subsequent notification and circular shall be given retrospective effect. According to the learned Counsel, the University Grants Commission is the

competent authority to prescribe the qualifications, and the decision of the Commission cannot and shall not be superseded by the decision of the

Central Government. It is contended that in any view of the matter, the vacancy arose before the notification of 2009 i.e., before the Regulation

came into force and therefore, it will not apply to the present case.

24. On the other hand, Mr. R. Krishnamoorthy, learned senior counsel appearing for the University Grants Commission first drawn our attention to

the Circular dated 10.2.1993 and submitted that by the said circular exemption from appearing in NET select test was given to the candidates

including those who have already been awarded M. Phil up to 31.03.1991. However, the said cut off date prescribed in the said notification dated

10.2.1993 was extended to the candidates, who have completed M. Phil up to 31.12.92. On 21.6.1995, an amendment was brought whereby

candidates who submitted Ph.D thesis or passed M. Phil examination by 31.12.1993 were exempted from the purview of eligibility test conducted

by UGC, CSIR or similar test accredited by UGC. Learned senior counsel submitted that a Regulation was introduced on 24.12.1998 prescribing

NET as a compulsory qualification through exemption conducted by UGC, CSIR or similar test accredited by UGC. On 4.4.2010, Regulations

were again framed making NET as a compulsory requirement through the exams conducted by UGC, CSIR or similar test accredited by UGC.

Learned senior counsel submitted that the said Regulation dated 04.04.2010 was in supersession of earlier Regulations dated 19.09.1991 and

24.12.1998. By this Regulation NET was made compulsory even for candidates having Ph.D degree. However, candidates who have completed

M. Phil degree or submitted Ph.D thesis in the concerned subject upto 31.12.93 were exempted. Learned Counsel further submitted that on

31.07.2002, first amendment was brought about in the Regulation whereby NET remained compulsory requirement for PH.D holders. It was

reiterated that to claim exemption, the candidates should have completed M. Phil degree or obtained Ph.D degree prior to 31.12.2002.

25. Mr. Krishnamoorthy, then drawn our attention to the second amendment dated 14.6.2006, which was brought based on the interim report of

Expert Committee under the Chairmanship of Dr. B.L. Mungekar. Under the said amendment also, NET remained compulsory requirement. But

as regards Ph.D degree holders in the concerned subject, NET was exempted for PG and UG level teaching. As regards, M. Phil degree holders,

NET was exempted only for Under Graduate level teaching. Learned Counsel submitted that in the year 2008, the Ministry of Human Resources

Department, Government of India, in exercise of power u/s 20(1) of the UGC Act, issued direction making NET as compulsory for the teaching

post and to restrain the UGC from granting any blanket exemption from NET/SLET unless the degree of Ph.D has been awarded in terms of

standard and quality laid down by the Commission.

26. Learned Counsel submitted that on 11.07.2009, the third amendment was brought about under which NET/SLET remained the minimum

eligibility condition, apart from educational qualification for recruitment and appointment of lecturers in the Universities/ Colleges/ Institutions.

However, the candidates who have awarded Ph.D degree in compliance of UGC (Minimum Standards and Procedure for Awarding Ph.D degree)

Regulation, 2009, only shall be exempted from the requirement of NET/SLET. According to the learned senior counsel, finally on 30.06.2010,

Regulations, 2010 were framed superseding the earlier Regulations under which NET was made compulsory for appointment to the teaching post.

In the amended Regulation, however, holders of Ph.D degree in line with the 2009 Regulations for grant of Ph.D degrees were alone exempted.

Learned senior counsel submitted that although UGC by resolution dated 12.08.2010 sought to exempt candidates who obtained Ph.D degree on

or before 2009, and candidates who had registered themselves for Ph.D degree on or before 31.12.2009, and the said Regulation was forwarded

to the Ministry of Human Resources Department, Government of India, but the said recommendation of the Commission was rejected, and it has

been reiterated that NET/SLET examination shall be the only eligibility criteria for appointment to the teaching post.

27. Mr. M. Ravindran, learned Additional Solicitor General, appearing for the Union of India-Human Resources Development, on the other hand,

drew our attention to the counter affidavit and submitted that in the year 1993, the Mehrotra Committee, which was constituted in the year 1993

by the UGC, was specifically asked to examine and recommend a structure of emoluments and conditions of services of the University and College

teachers keeping in view the necessity of attracting and retaining talented persons in the teaching profession. As a step towards achieving the goal,

the Committee recommended qualifying in NET as an essential condition for recruitment to the post of lecturer in the University/College throughout

the country. The Government of India after 17 years of introduction of NET felt the need to comprehensively evaluate the NET, and the object of

it so as to remove the disparities and heterogeneities in the standards of evaluation and teaching prevailing among a large number of colleges and

universities. Learned Additional Solicitor General submitted that the Government of India in view of its deep concern about the quality of education

set up a Review Committee consisting of Experts to review the scheme of NET by order dated 10.11.2005. The Committee constituted under the

Chairmanship of Prof. Bhalchandra Mungekar and other eminent experts to review the NET had recommended in its report dated 26.7.07 that

NET/SLET should be retained as a compulsory requirement for appointment of lecturers at undergraduate and postgraduate levels irrespective of

candidates possessing the degree of M. Phil or Ph.D. The report of the Mungekar Committee was considered by the UGC in its meeting held on

21.07.2008, wherein it was inter alia resolved that NET/SLET or Ph.D shall remain the minimum eligibility condition for recruitment of lecturers in

Universities, colleges and other institutions. Learned Additional Solicitor General submitted that the Government after considering the report of the

Mungekar Committee in the light of the recommendations of UGC Act, issued a direction that the UGC to serve the national purpose of

maintaining standards of higher education, frame appropriate regulations within a period 30 days prescribing that qualifying in the NET/SLET shall

be generally compulsory for all persons to be appointed to teaching positions of lecturers or Assistant Professor in Universities and other

Institutions imparting higher education and only persons who possess degree of Ph.D after having been enrolled/admitted to a programme notified

by UGC and after it satisfy itself on the basis of the expert opinion, that such Ph.D degree has been obtained in conformity with the procedure and

standards prescribed by it under the Regulations framed for the purpose, may be exempted.

28. Learned Additional Solicitor General submitted that UGC has been directed not to give any blanket or general exemption from NET/SLET to

any university or institution unless the Ph.D awarded by an university or an institution meets the same level of rigor in terms of standards and quality

as laid down by the UGC for each discipline under the Regulations. In compliance with the above mentioned policy directive of the Central

Government dated 12.11.2008, the UGC had notified regulations, namely, the University Grants Commission (Minimum Qualifications for

appointment and career advancement of teachers in Universities and Colleges) (3rd Amendment) Regulations, 2009 whereby it specified that

qualifying NET/SLET would be the minimum eligibility condition for recruitment and appointment of lecturers in universities and colleges with

exemption to be provided to persons who have obtained Ph.D degree in accordance with the standards prescribed by the UGC. It is submitted

that the first proviso of Clause 2 of the UGC Minimum Qualifications for appointment and career advancement of teachers in Universities and

Colleges) (3rd Amendment) Regulations, 2009 empowers the UGC to provide relaxation in prescribed qualifications in a particular subject in

which NET is not being conducted or enough number of candidates are not available with NET qualification for a specific period. The intent of the

said proviso is that the relaxation in qualifying NET was to be granted by UGC in a particular subject for a specified period of time before the

commence ment of the recruitment process where after due diligence it was concluded that sufficient number of candidates are not available. The

said relaxation would be based on sound justification and would apply to affected universities for a particular subject for a specific period and no

individual applications would be entertained.

29. Learned Additional Solicitor General submitted that the intent of policy directive is to raise the standard of higher education by giving quality

teaching through induction of talent into the academic profession at the entry stage. Emphasizing the same, directions were issued to the UGC by

the Central Government in exercise of its power by Sub-section (1) of Section 20 of the UGC Act, reiterating the principle of attracting quality

talent to teaching as a national policy. It is submitted that the Government has got full powers u/s 20 to issue directions on matters pertaining to

policy and the UGC "shall" be guided by such direction. The question of national policy may pertain to any of the items, including that of framing

regulations and prescribing minimum qualifications and it is obligatory on the part of the Government, and in fact it is a matter of national policy, to

ensure that best quality teachers are provided to the students. Therefore, learned Additional Solicitor General submitted that the impugned

regulations stand the scrutiny of law and the contention of the Petitioners that the impugned regulations are against law and without authority is not

correct.

30. Learned Additional Solicitor General submitted that more than 12,000 NET qualified candidates are waiting for employment in teaching, and

the Government is not aware as to how many candidates with qualification of SLET are waiting for employment. The UGC and various

Governments prescribed qualifications from time to time and keeping in mind the qualifications needed at that time appointments are made only

prospective effect. Permitting the candidates who are not having minimum qualifications to appear in interviews would mean injustice to the

candidates who possess qualifications that satisfy the revised rules. According to the learned Additional Solicitor General, if the request of the

Petitioners are accepted, it would only mean compromising on the quality of education and teaching in educational institutions, which is primary

concern of the UGC and the Government.

31. Lastly, learned Additional Solicitor General submitted that the contention of the writ Petitioners that the impugned regulations are unsustainable

as they were issued upon the directions of the first Respondent is untenable and unsustainable. u/s 20 of the Act, the Central Government is

empowered to give directions to UGC to frame appropriate regulations. The impugned regulations were enacted by the second Respondent

pursuant to the directions issued by the first Respondent in its order dated 12.11.2008 upon the recommendations made by Prof. Mungekar

Committee. Although the UGC recommended that candidates who had already registered for M. Phil and complete the same upto 30.06.2009 be

exempted from NET for UG teaching and that NET/SLET shall be compulsory for

candidates completing their M. Phil on or after 01.07.2009, the Government in exercise of its power did not accept the said recommendations in its order dated 12.11.2008. According to the learned Additional Solicitor General, contrary to the instructions and directions of this Respondent, the second Respondent in its meeting held on 12.08.2010 proposed to exempt certain candidates from the requirement of NET qualification for the purpose of appointment as lecturer/Asst. Professor. It is also not proper on the part of the Petitioners to contend that the second Respondent had granted relaxation to candidates who do not possess NET/SELT qualifications, since this Respondent had clarified all the questions and only after clarifications, the second Respondent framed and notified the impugned regulations.

32. Learned Additional Solicitor General submitted that the prospective nature of amendments dated 11.07.2009 will apply to advertisements issued for recruitment/appointment after that date. It does not enure to those who have obtained M. Phil/Ph.D prior to that date. Those candidates who have obtained their M. Phil/Ph.D have to comply with the amended regulations from 11.07.2009. On and from 11.07.2009, only candidates who have qualified in NET/SLET are eligible to apply for teaching faculty in colleges, universities/deemed universities. Learned Additional Solicitor General finally submitted that the impugned regulations are prospective in nature and the candidates have to satisfy the qualification prescribed in the recruitment process initiated after 11.07.2009.

33. In a nutshell, the entire argument advanced by the learned Counsel appearing for the Appellants is based on the doctrine of legitimate expectation, which cannot be taken away or withdrawn by the impugned regulation. According to the learned Counsel the impugned regulation is based on the direction issued by the first Respondent/Central Government, which is unsustainable. However, the argument advanced by Mrs. Nalini Chidambaram, learned Senior Counsel appearing for some of the Appellants is that their case is not based on legitimate expectation. Learned Counsel mainly emphasized on the cut off date i.e., 31.12.1993, which is based on a rational basis, and therefore, the candidates who have completed their M. Phil Degree on or before 31.12.1993 are exempted from NET/SLET examination and they are eligible to be considered

for appointment for the teaching posts. Learned Counsel placed reliance on the decision of the Supreme Court in the case of University Grants

Commission v. Sadhana Chaudhary reported in JT 1996 (8) SC 234.

34. Before meeting the argument advanced by the learned Counsels, we would like to discuss the relevant provisions of the University Grants

Commission Act, 1956 (UGC Act, 1956). The aforesaid Act was enacted by the Parliament to make provision for the co-ordination and

determination of standards in Universities and to establish a University Grants Commission. Section - 5 of the Act speaks about the composition of

the Commission which shall consist of a Chairman, Vice Chairman and 10 other Members to be appointed by the Central Government. The

Chairman shall be from among the persons who are not officers of the Central Government or of any State Government. Whereas the other

members shall be from the officials of the Central Government to represent that Government. Sections 6 - 11 relate to the provisions with regard to

filling up of the vacancies of the Commission, staff of the Commission and the procedures for the conduct of meetings of the Commission. Section

12 prescribes the powers and functions of the Commission inter alia, which includes recommendation to any University the measures necessary for

the improvement of University education and to advise the University on the action to be taken for the purpose of implementing such

recommendation. Section 20 of the Act is the relevant provision which says that on the discharge of its functions the Commission shall be guided

by such directions on question of policy relating to national purposes as may be given to it by the Central Government . Sub-section (2) of Section

20 clearly provides that if any dispute arises between the Central Government and the Commission as to whether a question is or is not a question

of policy relating to national purposes, the decision of the Central Government shall be final. For better appreciation Section 20 of the Act is

reproduced herein below:

20. (1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national

purposes as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to

national purposes, the decision of the Central Government shall be final.

35. Section 25 of the Act confers power to the Central Government to make Rules to carry out the purposes of the Act. Sub-section (3) of Section

25 further confers power to the Central Government to make Rules and to give it retrospective effect from a date not earlier than the date of

commencement of the Act. Whereas Section 26 confers to the Commission to make Regulations consistent with the Act and the Rules made there

under. By notifying Regulations, the Commission may make provisions for regulating the meetings of the Commission specifying the terms and

conditions of service of service of the employees appointed by the Commission and also defining the qualifications that should ordinarily be

required of any person to be appointed to the teaching staff of the University. Similar to the power conferred to the Central Government, Sub-

section (3) of Section 26 confers power to the Commission to make Regulations and to give retrospective effect not earlier than the date of

commencement of the Act. Section 26 of the Act reads as under:

26. (1) The Commission (may by notification in the Official Gazette, make regulations) consistent with this Act and the rules made there under:

(a) regulating the meetings of the Commission and the procedure for conducting business thereat;

(b) regulating the manner in which and the purposes for which persons may be associated with the Commission u/s 9;

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

(d) specifying the institutions or class of institutions which may be recognized by the Commission under Clause (f) of Sub-Section 2;

(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 co-ordination of work or facilities in the Universities;

(h) regulating the establishment of institutions referred to in Clause (ccc) of Section 12 and other matters relating to such institutions.

(i) specifying the matters in respect of which fees may be charged, and scales of fees in accordance with which fees may be charged, by a college

under Sub-section (2) of Section 12A;

(j) specifying the manner in which an inquiry may be conducted under Sub-section (4) of Section 12A;

(2) No regulation shall be made under Clause (a) or Clause (b) or Clause (c) or Clause (h) or Clause (i) or Clause (j) of Sub-section (1) except

with the previous approval of the Central Government.

(3) The power to make regulations conferred by this section except Clause (i) and Clause (j) of Sub-section (1) shall include the power to give

retrospective effect from a date not earlier than the date of commencement of this Act, to the regulations or any of them but no retrospective effect

shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.

36. From a bare reading of the relevant provisions quoted herein above, it is manifestly clear that in the discharge of power conferred under the

Act the Commission shall be guided by the direction mainly on question of policy relating to national purposes as may from time to time be given by

the Central Government. It is also clear that in case of any dispute between the Commission and the Government with regard to a question of

policy relating to national purpose the decision of the Central Government shall be final.

37. In the light of the aforesaid provisions contained in the Act, we shall now examine as to whether the claim of the Appellants, fully based on

legitimate expectation, can be sustained in law, in the facts and circumstances of the instant case. Further, whether the candidates, who have

completed Ph.D or M. Phil Degree on or before 31.12.1993 shall be entitled to be exempted from the condition imposed by the impugned

regulation i.e., to clear NET/SLET examination. As stated above, the Appellants based their argument on the ratio decided by the Supreme Court

in the case of University Grants Commission v. Sadhana Chaudhary reported in JT 1996 (8) SC 234.

38. In the aforesaid decision, one of the question raised was relating to the grant of exemption from the provisions contained in UGC

(Qualifications Required of a Person to be Appointed to the Teaching Staff of a

University and Institutions Affiliated to it) Regulations, 1991 which required that for appointment on the post of Lecturer in Universities and Colleges a candidate should have cleared the eligibility test conducted by UGC or CSIR or similar test accredited by the UGC. In the said decision the Supreme Court also considering the validity of the Ordinance dated 08.12.1994 promulgated by the Governor of Bihar requiring minimum qualification for appointment on the post of Lecturer and also the subsequent Circular issued by the Bihar State University Grants Commission to that effect. It was contended by the Appellants in that case that the post of Lecturer should be filled up by only those persons who have cleared National Eligibility Test or its equivalent examination.

39. After discussing various regulations that were framed from time to time, the question that fell for consideration before the Supreme Court was with regard to the validity of the circular of the UGC dated 10 th February, 1993 and 15 th June, 1995 as well as the notification dated 21 st June, 1995 amending the 1991 Regulations. In the said decision the Supreme Court held that the choice of a date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical. Further the Supreme Court on the question of validity of exemption regarding clearing eligibility test granted under the Circular dated 10 th February, 1995 and 15 th June, 1993 held as under:

22. We may now come to the validity of the exemption from the requirement regarding clearing the eligibility test that has been granted under the Circulars dated February 10, 1993 and June 15, 1995 and the notification dated June 21, 1995. Shri.S.B. Sanyal, the learned Senior Counsel appearing for the Appellants in Civil Appeal arising out of SLP (C) No. 27375 of 1995, has submitted that having regard to the report of the National Commission on Teachers II and the report of the Mehrotra Committee, which form the basis for introducing this requirement by the UGC in the 1991 Regulations, there is no rational basis for granting exemption from the eligibility test to candidates who has submitted Ph.D thesis or passed the M. Phil examination by December 31, 1993. We find no merit in this contention. Prior to the making of the 1991 Regulations there was no statutory requirement regarding clearing the eligibility test for the purpose of

appointment on the post of Lecturer. Such a requirement was introduced for the first time by the 1991 Regulations. At the time when the 1991 Regulations were made the provisions contained in the 1982 Regulations had given rise to a legitimate expectation that a person having a Ph.D. or M. Phil degree and having good academic record as prescribed under the 1982 Regulations would be eligible for appointment on the post of Lecturer without anything more. While introducing the requirement of clearing the eligibility test in the 1991 Regulations, the UGC did not intend to deprive the persons who had obtained M. Phil degree or Ph.D degree prior to the making of the 1991 Regulations of their legitimate expectation in the matter of appointment on the post of Lecturer in universities or colleges. It was also felt that the said requirement in the 1991 Regulations should not operate to the prejudice of persons who, having regard to the qualifications prescribed in the 1982 Regulations, had registered for the Ph.D. degree or had joined study for M. Phil degree course prior to making of the 1991 Regulations and, therefore, provision was made for granting exemption to such candidates with the condition that they should have passed M. Phil examination or should have submitted Ph.D. thesis by a particular date. In so far as the date of submission of Ph.D. thesis is concerned, the said date, i.e., December 31, 1993 has remained unchanged in the Circulars dated February 10, 1993 and June 15, 1993 and the notification dated June 21, 1995. For M. Phil degree the date was, however, changed from March 31, 1991 to December 31, 1992 by Circular dated June 15, 1993 and from December 31, 1992 to December 31, 1993 by notification dated June 21, 1995. The amendment in the 1991 Regulations that has been made by the notification dated June 21, 1995, in substance, postpones the date of applicability of the requirement regarding clearing the eligibility test in the 1991 Regulation still December 31, 1993 in respect of candidates who had joined the M. Phil course or registered for Ph.D. degree. Such candidates constitute a distinct class who could be treated separately in so far as the requirement of clearing the eligibility test was concerned. Such a classification of the candidates for the purpose of applicability of the requirement of clearing the eligibility test has a rational basis which has a reasonable nexus with the object sought to be achieved by the 1991 Regulations. We

are, therefore, unable to hold that the exemption that has been granted by the amendment introduced in the 1991 Regulations by notifications dated

June 21, 1995 is violative of the right to equality guaranteed under Article 14 of the Constitution.

The Court further observed -

24. This grant of exemption was in accord with the Circulars dated February 10, 1993 and June 15, 1993 that had been issued by the UGC. As

notified earlier Bihar Eligibility Test that was conducted by Bihar State University Service Commission on June 18, 1995 has been accredited by

the UGC on February 12, 1996 and further tests to be held in the period 1995-1997 have also been accredited with certain recommendations.

The grant of exemption from the eligibility test in the Corrigendum, therefore, does not run contrary to the requirement prescribed by the UGC in

the 1991 Regulations read with Circulars dated February 10, 1993 and June 15, 1993 which were applicable at that time. The question regarding

validity of the two Ordinances and the legislative enactments replacing them is, therefore, left open.

40. In the instant case, as noticed above, in order to improve the quality of education, the first Respondent namely, the Central Government set up

a Review Committee under the Chairmanship of Bhalchandra Munekar and other Experts to review the Scheme of National Eligibility Test. In its

final report the Committee took a view that the NET/SLET test should be retained as a compulsory requirement for appointment of Lecturers at

Under Graduate and Post Graduate levels irrespective of candidates possessing the degree of M. Phil or Ph.D. The report of the Munekar

Committee was considered by the UGC in its meeting held on 21.07.2008 and resolved that NET/SLET or Ph.D. shall remain the minimum

eligibility condition for recruitment of Lecturers in universities, colleges and other institutions of higher learning. The government had also considered

the report of the Munekar Committee in the light of the recommendation of the UGC and issued a direction on 12.11.2008 under 20 of the UGC

Act giving instructions to prepare appropriate regulations keeping in mind the national purpose of maintaining the standard of higher education

prescribing that NET/SLET shall be compulsory for all persons to be appointed to teaching post of Lecturer or Assistant Professor in universities

and other institutions imparting higher education. It was also suggested that only persons who possess the degree of Ph.D. after having been

enrolled/admitted to a program notified by the UGC that too after it has fully satisfied itself on the basis of the expert opinion that such Ph.D.

degree has been obtained in conformity with the procedure and standards prescribed by it only could be exempted. The government in exercise of

the power under the Act also directed that the Commission shall not give any blanket or general exemption from NET/SLET to any university

unless Ph.D. awarded by a university or an institution needs the same level of rigor in terms of standards and quality as laid down by the UGC for

each discipline. In compliance with the above policy directive of the Central Government dated 12.11.2008 the UGC notified regulations by 3rd

Amendment called 3rd Amendment Regulations, 2009, which was notified on 11.07.2009, which is impugned herein. It was categorically specified

that qualifying NET/SLET would be the minimum eligibility condition for recruitment and appointment of Lecturers in universities and colleges with

exemption to be granted only to persons who have obtained Ph.D. degree in accordance with the standard and rigor prescribed under the UGC

(Minimum Qualifications for Appointment and Career Advancement of Teachers in Universities and Colleges) Regulations, 2009.

41. It is, therefore, evidently clear that the directive of the Central Government dated 12.11.2008 was to ensure the national purpose inasmuch as

raising the standards of higher education reflected through the quality of teaching should be approached through induction of talent into the

academic profession at the initial stage. However, contrary to instructions and directions of the Central Government the Commission in its meeting

held on 12.3.2010 proposed to exempt certain candidates from the requirement of NET qualification for the purpose of appointment of

Lecturers/Assistant Professors and sent to the Government for approval, but the same was not approved by the Central Government.

42. After giving full consideration on the regulations time to time framed by the Commission after 1991 and the amendment brought therein, the

question arises as to whether the candidates who have obtained M. Phil degree on or before 31.12.1993 are still entitled to claim exemption on the

ground of legitimate expectation and also on the ground that such candidates were held to be treated as a different class as held by the Supreme

Court while deciding the validity of Regulations of 1991.

43. "Legitimate" in legal parlance means that which is lawfully legal, recognized by law or according to law. The word "expectation" means the act

or the instance of expecting or looking forward something, expects or hoped for probability of an event. Expectation is often related to one's

prospect.

44. The concept of "legitimate expectation" has been elaborately discussed by the Supreme Court referring to various principles and the foreign

decisions in the case of Union of India and others Vs. Hindustan Development Corpn. and others, . Some of the paragraphs are worth to be

quoted herein below.

Paragraph 30 of the said judgment reads as under:

In some cases a question arose whether the concept of legitimate expectation is an impact only on the procedure or whether it also can have a

substantive impact and if so to what extent. Attorney General for New South Wales v. Quin 1990) 64 Aust LJR 327 is a case from Australia in

which this aspect is dealt with. In that case the Local Courts Act abolished Courts of Petty Sessions and replaced them by Local Courts. Section

12 of the Act empowered the Governor to appoint any qualified person to be a Magistrate in the new court system. Mr Quin, who had been a

Stipendiary Magistrate in charge of a Court of Petty Sessions under the old system, applied for, but was refused, an appointment under the new

system. That was challenged. The challenge was upheld by the appellate court on the ground that the selection committee had taken into account

an adverse report on him without giving a notice to him of the contents of the same. In the appeal by the Attorney-General against that order

before the High Court, it was argued on behalf of Mr Quin that he had a legitimate expectation that he would be treated in the same way as his

former colleagues considering his application on its own merits. Coming to the nature of the substantive impact of the doctrine, Brennan, J.

observed that the doctrine of legitimate expectations ought not to "unlock the gate which shuts the court out of review on the merits", and that the

courts should not trespass "into the forbidden field of the merits" by striking down administrative acts or decisions which failed to fulfil the

expectations. In the same case Mason, C.J. was of the view that if substantive

protection is to be accorded to legitimate expectations that would encounter the objection of entailing "curial interference with administrative decisions on the merits by precluding the decision-maker from ultimately making the decision which he or she considers most appropriate in the circumstances.

Thus, the principle has been initiated in the said decision, wherein it was held as follows: -(para 35 page 549)

... If a denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory, unfair or biased, gross

abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim

based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. It can be one of the grounds

to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference. It depends very much

on the facts and the recognised general principles of administrative law applicable to such facts and the concept of legitimate expectation which is

the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action, must be restricted to the general legal

limitations applicable and binding the manner of the future exercise of administrative power in a particular case. It follows that the concept of

legitimate expectation is "not the key which unlocks the treasury of natural justice and it ought not to unlock the gates which shut the court out of review

on the merits", particularly when the element of speculation and uncertainty is inherent in that very concept. As cautioned in Attorney General for

New South Wales case (1990 64 Aust LJR 327) the courts should restrain themselves and restrict such claims duly to the legal limitations. It is a

well-meant caution. Otherwise a resourceful litigant having vested interests in contracts, licences etc. can successfully indulge in getting welfare

activities mandated by directive principles thwarted to further his own interests. The caution, particularly in the changing scenario, becomes all the

more important.

45. In Punjab Communications Ltd. Vs. Union of India and Others, , the principle was again considered in paragraph-33 of the judgment, wherein

it was held as follows:-(page 744)

This Court considered the question elaborately in *Union of India and others Vs. Hindustan Development Corpn. and others*, . There tenders were called for supply of cast-steel bogies to the Railways. The three big manufacturers quoted less than the smaller manufacturers. The Railways then adopted a dual-pricing policy giving counter-offers at a lower rate to the bigger manufacturers who allegedly formed a cartel and a higher offer to others so as to enable a healthy competition. This was challenged by the three big manufacturers complaining that they were also entitled to a higher rate and a large number of bogies. This Court held that the change into a dual-pricing policy was not vitiated and was based on "rational and reasonable" grounds. In that context, this Court referred to Halsbury's Laws of England [4th Edn. Vol. 1(1) 151]. This Court referred to *Schmidt v. Secy. of State for Home Affairs* (1969 (1) ALL ER 904, CA) which required an opportunity to be given to an alien if the leave given to him to stay in the U.K. was being revoked before expiry of the time and to *Attorney General of Hong Kong v. Ng Yuen Shiu* (1983 AC 629, which required the Government of Hong Kong to honour its undertaking to treat each deportation case on its merits; this Court also referred to *Council of Civil Service Unions v. Minister for the Civil Service* (1985 AC 374) which related to alteration of conditions relating to membership of trade unions and the need to consult the unions in case of change of policy as was the practice in the past, and to *Food Corporation of India Vs. M/s. Kamdhenu Cattle Feed Industries, and Navjyoti Co-operative Housing Society etc. Vs. Union of India and Others*, . This Court then observed that legitimate expectation was not the same thing as anticipation. It was also different from a mere wish or desire or hope. Nor was it a claim or demand based on a right. A mere disappointment would not give rise to legal consequences. This Court held as follows: (SCC p.540, para 28)

The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. ... Such expectation should be justifiably legitimate and protectable.

46. In the case of *Dr. (Mrs.) Chanchal Goyal Vs. State of Rajasthan*, the principle of Doctrine of Legitimate Expectation was elaborately discussed and their Lordships held as follows:

-(paras 14 & 16, pages 496-497)

14. The principle of a substantive legitimate expectation, that is, expectation of a favourable decision of one kind or another, has been accepted as

part of the English law in several cases. (De Smith: Administrative Law, 5th Edn., para 13.030. See also Wade and Forsyth: Administrative Law,

7th Edn., pp. 418-19.) According to Wade, the doctrine of substantive legitimate expectation has been "rejected" by the High Court of Australia

in Attorney General for N.S.W. v. Quin 16 (but see Teon case referred to later) and that the principle was also rejected in Canada in reference

Canada Assistance Plan, Re (1991 (83) DLR 297) but favoured in Ireland in Canon v. Minister for the Marine (1991 (1) IR 82. The European

Court goes further and permits the court to apply proportionality and go into the balancing of legitimate expectation and the public interest.

16. To a like effect are the observations of Lord Diplock in Hughes v. Deptt. of Health and Social Security 1985 AC 776 :

Administrative policies may change with changing circumstances, including changes in the political complexion of Governments. The liberty to make

such changes is something that is inherent in our constitutional form of government.[See in this connection Mr Detan's article "Why Administrators

Should be Bound by their Policies" (Vol. 17), 1997, Oxford Journal of Legal Studies, p.23]. But today the rigidity of the above decisions appears to

have been somewhat relaxed to the extent of application of the Wednesbury rule, whenever there is a change in policy and we shall be referring to

those aspects presently.

47. In the case of Union of India (UOI) and Another Vs. International Trading Co. and Another, it has been held as follows: -(paragraphs 21, 22

& 23, pages 446-447)

21. As observed in Attorney General for New South Wales v. Quin (1990 (64) Aus LJR 327 to strike the exercise of administrative power solely

on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to) set the courts adrift on a featureless sea of

pragmatism. Moreover, the negotiation of a legitimate expectation (falling short of a legal right) is too nebulous to form a basis for invalidating the

exercise of a power when its exercise otherwise accords with law. If a denial of legitimate expectation in a given case amounts to denial of right

guaranteed or is arbitrary, discriminatory, unfair or biased gross abuse of power or violation of principles of natural justice, the same can be

questioned on the well-known grounds attracting Article 14 but a claim based on mere legitimate expectation without anything more cannot ipso

facto give a right to invoke these principles. It can be one of the grounds to consider, but the court must lift the veil and see whether the decision is

violative of these principles warranting interference. It depends very much on the facts and the recognized general principles of administrative law

applicable to such facts and the concept of legitimate expectation which is the latest recruit to a long list of concepts fashioned by the courts for the

review of administrative action must be restricted to the general legal limitations applicable and binding the manner of the future exercise of

administrative power in a particular case. It follows that the concept of legitimate expectation is "not the key which unlocks the treasure of

natural justice and it ought not to unlock the gates which shuts the court out of review on the merits", particularly, when the element of speculation and

uncertainty is inherent in that very concept. As cautioned in Attorney General for New South Wales case (supra) the court should restrain

themselves and respect such claims duly to the legal limitations. It is a well-meant caution. Otherwise, a resourceful litigant having vested

interest in contract, licenses, etc. can successfully indulge in getting welfare activities mandated by directing principles thwarted to further his own

interest. The caution, particularly in the changing scenario becomes all the more important.

22. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities and adopt trade

policies. As noted above, the ultimate test is whether on the touchstone of reasonableness the policy decision comes out unscathed.

23. Reasonableness of restriction is to be determined in an objective manner and from the standpoint of interests of the general public and not from

the standpoint of the interests of persons upon whom the restrictions have been imposed or upon abstract consideration. A restriction cannot be

said to be unreasonable merely because in a given case, it operates harshly. In determining whether there is any unfairness involved; the nature of

the right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied

thereby, the disproportion of the imposition, the prevailing condition at the relevant time, enter into judicial verdict. The reasonableness of the

legitimate expectation has to be determined with respect to the circumstances relating to the trade or business in question. Canalisation of a

particular business in favour of even a specified individual is reasonable where the interests of the country are concerned or where the business

affects the economy of the country. (See *The Parbhani Transport Co-operative Society Ltd. Vs. The Regional Transport Authority, Aurangabad*

and Others, , *Shree Meenakshi Mills Ltd. Vs. Union of India (UOI)*, ,, *LaLa Hari Chand Sarda Vs. Mizo District Council and Another*, , and

Krishnan Kakkanth Vs. Government of Kerala and others,

48. In the case of *Sethi Auto Service Station and Another Vs. Delhi Development Authority and Others*, , it has been held as follows: -(paras 32,

33, 38 & 39, pages 190-193)

32. An examination of the aforementioned few decisions shows that the golden thread running through all these decisions is that a case for applicability

of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative

body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfil unless some

overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance,

has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere

only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural

justice and not taken in public interest. But a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke

these principles.

33. It is well settled that the concept of legitimate expectation has no role to play where the State action is as a public policy or in the public interest

unless the action taken amounts to an abuse of power. The court must not usurp the discretion of the public authority which is empowered to take

the decisions under law and the court is expected to apply an objective standard which leaves to the deciding authority the full range of choice

which the legislature is presumed to have intended. Even in a case where the decision is left entirely to the discretion of the deciding authority

without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a

person whose interest based on legitimate expectation might be affected. Therefore, a legitimate expectation can at the most be one of the grounds

which may give rise to judicial review but the granting of relief is very much limited. (Vide Union of India and others Vs. Hindustan Development

Corpn. and others,)

38. Having bestowed our anxious consideration to the facts in hand, in our judgment, the doctrine of legitimate expectation, as explained above, is

not attracted in the instant case. It is manifest that even under the 1999 policy, on which the entire edifice of the Appellants' substantive

expectation of getting alternative land for resettlement is built does not cast any obligation upon DDA to relocate the petrol pumps. The said policy

merely laid down a criterion for relocation and not a mandate that under the given circumstances DDA was obliged to provide land for the said

purpose. Therefore, at best the Appellants had an expectation of being considered for resettlement. Their cases were duly considered, favourable

recommendations were also made but by the time the final decision-making authority considered the matter, the policy underwent a change and the

cases of the Appellants did not meet the new criteria for allotment laid down in the new policy.

39. We are convinced that apart from the fact that there is no challenge to the new policy, which seems to have been conceived in public interest in

the light of the changed economic scenario and liberalised regime of permitting private companies to set up petrol outlets, the decision of DDA in

declining to allot land for resettlement of petrol pumps, a matter of largesse, cannot be held to be arbitrary or unreasonable warranting interference.

Moreover, with the change in policy, any direction in favour of the Appellants in this regard would militate against the new policy of 2003. In our

opinion, therefore, the principle of legitimate expectation has no application to the facts at hand.

49. In the light of the principles laid down by the Supreme Court, we have no hesitation in holding that the principles of Legitimate Expectation will

have no application to the facts and circumstances of the present case. As noticed above, the Government of India, Ministry of Human Resources felt the need to introduce NET as compulsory for the purpose of appointment of teaching post in order to upgrade the standard of teaching. For that purpose, Expert Committees were constituted consisting of eminent experts and academicians, who recommended that NET/SLET should be retained as compulsory requirement for appointment of lecturers irrespective of the candidates possessing degree in M. Phil or Ph.D. After considering the report of Prof. Mungekar Committee, the University Grants Commission was directed to frame regulations to serve the national purpose of maintaining standards of higher education. But, the University Grants Commission, without considering the object and purpose of raising the standard of education, and without considering the global scenario, although framed regulations, but, tried to give certain relaxation to the candidates for appearing in NET/SLET examination. In our view, therefore, the Central Government has rightly refused to approve the decision of the University Grants Commission. Hence, the impugned regulation and the decision of the Central Government cannot, at any stretch of imagination, be held to be illegal, arbitrary or whimsical, rather the decision is rational and based on public interest and also national policy to upgrade the standards of education in the country.

50. For the reasons aforesaid, we do not find any merit in these appeals, which are accordingly dismissed. Consequently, the writ petitions are also dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.