

(1990) 04 SHI CK 0005
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 12 of 1990

Raj Kumar Thakur

APPELLANT

Vs

Dr. Y.S. Parmar University and Another

RESPONDENT

Date of Decision : 10-04-1990

Acts Referred:

Constitution of India, 1950 — Article 14
Himachal Pradesh University of Agriculture Horticulture and Forestry Act, 1986 —
Section 1(1), 12, 13, 14, 15
Himachal Pradesh University of Agriculture, Horticulture and Forestry Regulations —
Regulation 16, 2, 37(6), 4

Citation : (1990) 1 ILR HP 1

Hon'ble Judges : P.C.B. Menon, C.J.; V.P. Bhatnagar, J.; Bhawani Singh, J

Bench : Full Bench

Advocate : K.D. Sood, for the Appellant; D.C. Jistu, for the Respondent

Judgement

P.C. Balakrishna Manon, C.J.—The Petitioner is a Post Graduate Doctoral student in the department of Entomology-Apiculture in the Dr. Y.S. Par ma r University of Horticulture and Forestry, Solan. He has completed eight semesters and within this period has successfully undergone the course work, research credits and comprehensive examination. What remains to be done for the completion of the Doctoral Course is only his participation in seminars and the submission of thesis. He seeks the issue of a writ of certiorari to quash Annexure P-1 order of the University dated 22-12-1989 whereby the Vice Chancellor has declined to give extension for the ninth semester for the reason that the Petitioner being an employee, cannot also be a student under the University. He further seeks a direction to the Vice Chancellor to give him extension for two semesters, as prayed for, in his representation Annexure P. 2. Annexure P-3 is a further representation to the Vice Chancellor of the University, wherein he points out that there had been instances in the past where employees of the University were allowed to continue the Post Graduate Course. He has made particular reference to the instance of one Mrs. Amarjit Kaur who was permitted to

continue her Post Graduate Fellowship during the period of her probation.

2. The Petitioner was a student from 1985 onwards for the Post Graduate Doctoral Course in the University. He had registered for the eighth semester on 27-7-1989. By Annexure P-4 order of the University dated 26-7-1989, the Petitioner was appointed as Assistant Scientist (Apiculture) and he joined service of the University on 29-7-1989. The order of appointment Annexure P-4 imposes the condition that the Petitioner has to do Ph. D. within eight years from the date of joining duty failing which he shall cease to earn increments until he obtains the Ph. D. degree. He is also required to do teaching research and extension-work in his subject or any other work as may be assigned to him by the Vice Chancellor from time to time.

3. As per Regulation-4 of the Academic Regulations of the University, the Doctoral programme is of six semesters, but in the case of a particular student, the normal duration of the programme may be decreased or increased by two semesters by the Dean on the recommendation of the Adviser or the Head of the Department. The Regulation authorises the Vice Chancellor to further permit a student to register for two more semesters in the programme on the recommendation of the Dean. According to the Petitioner the Project undertaken by him was the first of its kind in India. In connection with the Project, he had to work on breeding of Honey-Bees *A Mellifera* for honey production through artificial insemination. It was through the efforts of the Petitioner that the technique of artificial insemination was standardised for the first time in India and it took about two years' time for the Petitioner to complete that part of the Project. He had no expert to guide and had to do all the research-work himself. The research-work involved Queen rearing, Drone rearing, semen collection and insemination etc. The semen sticks had to be imported as the same are not available in India. It was for these reasons that he took eight semesters to complete the Course-work, research credits and comprehensive examination. He required only two or three months to prepare and submit the thesis. It was considering all these aspects that the Dean of the Faculty had duly recommended to the Vice Chancellor to permit the Petitioner to register for two more semesters in the Doctoral programme. Extension of two more semesters was rejected solely on the ground that the Petitioner cannot simultaneously be an employee and a student of the University. The University in its affidavit-in-reply relies on. Statutes 7.23.1 and 2 and Academic Regulations 16 (a) and 37 in support of its stand that an employee cannot also be a student of the University. Statute 7.23. 1 and 2 are extracted below:

7.23.1. No teacher shall be entitled to this leave as a matter of right and shall not be granted if the applicant has not completed five years of continuous service in the University.

2. Study leave may be granted to a whole time teacher other than a Professor of the University to pursue a special line of study or research directly related to his work in the University. Application for such leave must be accompanied by a full

plan of work to be done during leave

4. According to the affidavit-in-reply, the University had been permitting in-service teachers for Ph. D. after their having rendered a minimum of five years of continuous service in the University and allowing them study-leave as per Statute, referred to above. The period of study-leave is counted as service for all purposes including salary and allowances. This is an enabling provision for a teacher of the University having five years continuous service to avail of study-leave without any loss of service benefits. We do not see anything in these Statutes to prevent an employee from being also a student of the University. On the other hand, the indications are that the University encourages its teachers having put in a minimum of five years service to avail of study-leave with full service benefits to pursue a special line of study or research, particularly related to his work in the University. The Petitioner not having put in five years of service is not entitled to the facility of study-leave. Since the work remaining to be done for the completion of the Doctoral Course, according to the Petitioner, may require only two or three months, it is open to him to avail of any other leave admissible under the Statutes. The work involved as per his employment under the University as an assistant Scientist takes in research work in the specialty and the preparation and submission of the thesis can as well be done without availing of any leave.

4-A The Academic Regulation 37 read as follows:

37. (a) "Every enrolled student shall be required to register at the beginning of each semester till the completion of the degree requirements, unless otherwise permitted by the Dean failing which his enrolment shall be cancelled. Readmission in such cases shall be by petition and not as a matter of right.

(b) Permission to withdraw from the college for a semester shall be granted by the Dean on the recommendation of the Adviser on the following grounds:

(i) Protracted illness leading to hospitalization of the student as supported by medical certificate from the University Medical Officer or the Medical Officer In charge of a Government Hospital.

(ii) Involvement of an accident whereby a student has been disabled temporarily and is not in a position to attend his classes.

(iii) The death of a close relative.

(iv) The student's confinement or his getting employment....

5. Regulation 37 (b) is an enabling provision for a student to withdraw from the college for a semester on any of the grounds mentioned therein. This does not contemplate a withdrawal from the course itself but on specified ground from any particular semester with a view that he can continue his course of study from the next following semester onwards. In fact the Petitioner himself had by his application Annexure P-2 prayed for extension of the normal duration of the

course by two semesters namely, the ninth and tenth semesters with a further request to allow him to withdraw from the ninth semester so that he may complete the course in the tenth semester after availing of the leave admissible Under the Statutes. We do not see anything! in Academic Regulation 37 to prevent a Doctoral student to discontinue his course on appointment as an employee of the University.

6. Much reliance is placed on Academic Regulation 16 (ii) and (iv) in support of the proposition that an employee cannot also be a student of the University. Academic Regulation 16(ii) and (iv) are extracted below:

16(ii) The Academic Council may further approve admission to Post Graduate programme in respect of the in-service candidates nominated by the Dr. Yashwant Singh Parmar University of Horticulture and Forestry/H.P. State Government/Autonomous bodies/other State Governments (which do not have Agricultural Universities or specialisation in a particular field). The admission of in-service candidates of the Dr. Yashwant Singh Parmar University of Horticulture and Forestry will be restricted to only Ph. D. Degree programme and to those subjects for which facilities in other institutions in the country are not available.

The admission of in-service nominees will normally be limited to one seat in each department over and above the intake capacity.

(iv) The in-service teacher of the Dr. Yashwant Singh Parmar University of Horticulture and Forestry shall get his leave sanctioned by the competent authority before he seeks admission for pursuing higher studies.

These Regulations also, according to us, can apply only to cases of initial admission to the particular course of study. Regulation 16(n) provides for admission of in-service candidates to Ph. D. degree programme in subjects for which facilities in other institutions are not available. This is a clear indication that in-service candidates are not precluded from continuing a course of study in the University. In this particular case, the Petitioner has almost completed his course and his J requirement is for an extension of two semesters with a further request for withdrawal from the ninth semester so that he can submit his thesis for the Doctoral course. He has in Annexure P2 clearly stated that he requires only a period of two months to complete the course and with a view to avail of admissible leave, he has also requested for withdrawal from the ninth semester. This will be a substantial compliance to the requirements of Clause (iv) of Regulation 16 even assuming that the said clause applies to the Petitioner. Clause (iv) however, applies only to the "in-service teachers" and it does not apply to the other "in-service candidates". The Petitioner is appointed as an Assistant Scientist in Apiculture in the University. On the very terms of appointment Annexure P4, it is clear that he: is not an "in-service teacher" even though the conditions of appointment enumerated in Annexure P-4 would indicate that he may be called upon to do teaching, research, extension work etc. as may be assigned by the Vice Chancellor from time to time. Teaching will,

therefore be an extra work that the Assistant Scientist may be called upon to do. He does not thereby become an "in-service teacher" within the meaning; of Clause (iv) of Regulation 16. Clause (ii) of the Regulation,; as earlier stated, does not, in our view preclude a student after accepting employment under the University completing his studies if that can be done with or without availing of admissible leave. Clause (ii) of Regulation 16 is on the other hand, a positive indication that an "in-service candidate" can also be a student of Ph. D. programme under the University.

7. The University has taken the stand in its affidavit- in-reply that the only way how the Petitioner can complete his course, is by availing of study-leave after putting in five years of continuous service under the University. Thus the student, who had been admitted to the Ph. D. programme in 1985 and has reached the final stage of the course, is required to wait for five years to complete the Course. Even the order of appointment annexure P-4 requires the Petitioner to obtain Ph. D. degree within eight years after his appointment on penalty of losing increment for any further delay in obtaining the degree. This would mean that Ph. D. degree is considered essential for the post to which the Petitioner is appointed. If a student is to wait for five years to qualify for study-leave, the Ph. D. course is necessarily to be completed within a period of three years thereafter. The provision in Academic Regulation 4 for extension of semesters by the Dean at the first instance and by the Vice Chancellor afterwards would all become nugatory if the candidate has to complete the course in three years time.

8. We are also of the view that even if Clauses (ii) and (iv) of Regulation 16 are capable of two interpretations, the one that would promote justice and would be beneficial to the candidate concerned should be accepted.

9. The candidate in the present case has already completed eight semesters and requires only two or three months to complete the Ph. D. course. He has done research on a specialised theme and has put in considerable efforts, even without a guide, for a period of over four years. It will be extremely hard upon him if he is required to wait for another five years to avail of study- leave and complete the course. By that time he would have forgotten what he has learnt by the research. He may also lose interest to pursue the course if he is to discontinue the course of study for a period of five years.

10. The following passage at page 94 in Craies on Statute Law, Seventh Edition, is apposite in construing Regulation 16. The passage reads:

If (as is often the case) the meaning of an enactment, whether from the phraseology used or otherwise, is obscure, or if the enactment is, as Brett L. J. said in the R. L. Alston, "unfortunately expressed in such language that it leaves it quite as much open, with regard to its form of expression, to the one interpretation as to the other," the question arises, "What is to be done? We must try and get at the meaning of what was intended by considering the consequences of either construction. And if it appears that one of these

constructions will do injustice, and the other will avoid that injustice, "it is the bounden duty of the court to adopt the second and not to adopt the first, of those constructions.""" However, "difficult, not to say impossible," it may be to put a perfectly logical construction upon a statute, a court of justice "is bound to construe it, and, as far as it can to make it available for carrying out the objects of the legislature, and for doing justice between parties.

The same principle is stated by Maxwell on Interpretation of Statutes, Twelfth Edition, at page 199:

In determining either the general object of the legislature, or the meaning of its language in any particular passage, it is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles should, in all cases of doubtful significance, be presumed to be the true one "An intention to produce an unreasonable result is not to be imputed to a statute if there is some other construction available." Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction.

Lord Reid observed in *Gill v. Bonald Humberstone & Co Ltd.* 1963 (1) W.L.R. 929 :

if the language is capable of more than one interpretation, we ought to discard the more natural meaning if it leads to an unreasonable result, and adopt the practicable result.

11. *R.v. Barnet London Borough Council ex. p. Nilish bnah* (1983) 1 A.U. E R 226, related to a case concerning the interpretation of Section 1(1) of the Education Act, 1962. The Sub-section requires local education authority to make grants to students who are "ordinarily resident" in their area so that they can attend the courses of higher education. Regulations made under the Act required the student to have been "ordinarily resident" in the U.K. for three years prior to his application. The question arose whether persons who had come to the U.K. for purpose of education could count the period so spent as ordinary residence" so as to qualify for the grant under the Act. The Court of Appeal held that such persons are not entitled to the grant. The House of Lords unanimously reversed the decision of the Court of Appeal and held that the Parliament's purpose expressed in the Education Act gave no hint to any restriction on the eligibility for the mandatory grant other than "ordinary residence" in the U.K. or three years and a satisfactory educational record.

12. The House of Lords expressed the view that it was totally wrong for the Court of Appeal to have relied upon the provisions of the Immigrants Act 1962 and its successor the Immigration Act, 1971 in the matter of interpretation of Section 1(1) of the Education Act as there was nothing expressed in these enactments which gave guidance for interpretation of the Education Act. Accordingly a construction that would work in-injustice to the student was avoided and the one that would promote justice was accepted.

13. On the question of purposive interpretation of Statutes, the Supreme Court in *Atma Ram Mittal v. Ishwar Singh Punia* (1988) 4 SCC 784:

Judicial time and energy is more often than not consumed in finding what is the intention of the Parliament or in other words, the will of the people. Blackstone tells us that the fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made, by signs most natural and probable. And these signs are the words, the context, the subject matter, the effects and consequence, or the spirit and reason of the law (emphasis by the court) See Commentaries on the Laws of England (facsimile of 1st edn of 1765, University Chicago Press 1979 Vol 1. p. 59) Mukherjee J, as the learned Chief Justice then was, in *Poppatlal Shah Vs. The State of Madras*, said that each word, phrase or sentence was to be construed in the light of purpose of the Act itself But words must be construed with imagination of purpose behind them said Judge Learned Hand, a longtime ago. It appears therefore, that though we are concerned with seeking of intention, we are rather looking to the meaning of the words that the legislature has used and the true meaning of what words as was said by Lord Reid in *Black Clawson International Ltd. v. Papierwerke Waldhof-Aschaffenburg A.G.* (1975) 1 AER 810. We are clearly of the opinion that having regard to the language we must find the reason and the spirit of the law.

14. Cross on Statutory Interpretation, second edition, states at page 93:

As Lord Hailsham remarked extra-judicially, "There is nothing necessarily arbitrary or improper if judges select restricted or extended interpretations of an Act based less on language than on the nature and purpose of the language legislation." But, as has been pointed out, the context of a statutory provision includes the place which it occupies in relation to other legal provisions and values in the legal system as a whole. Accordingly, a secondary meaning of a statutory provision may be chosen to avoid an anomaly or repugnance in relation to those other provisions of values. Both the majority and the minority in *Wills v. Bowley* (1982) 2 AER. 654, adopted this approach differing merely on which legal value, public order or the liberty of the citizen was to be given priority in the interpretation of the Section.

15. In the light of these principles we are of the view that Academic Regulation 16 does not preclude a student from completing his Ph. D. programme merely because he has accepted employment under the University. As a matter of fact, the University in the present case itself had not raised any objection in the Petitioner completing the eighth semester that commenced on 27-7-1989 after his accepting employment under the University on 29-7-1989. The past practice of the University would also show that students accepting employment under the University were allowed to continue their courses of study. Annexure P-3 refers to one Mrs. Amarjit Kaur who was allowed to proceed on Post Graduate Fellowship during the period of her probation. Her instance is referred to in paragraph-4 of the Rejoinder filed by the Petitioner. Paragraph-4 of the sur-

rejoinder filed by the University refers to the case of Dr.Amarjit Kaur and a distinction is sought to be drawn on the ground that it was not for undergoing Ph. D. programme. The distinction makes no difference on the principle involved in permitting a student to continue his studies after accepting employment under the University.

16. Learned Counsel for the University submits that allowing the Petitioner to continue the Ph D programme would result in injustice to other teachers and refers to the following statement in. paragraph-6 of the affidavit-in-reply:

It is further submitted that the allowing of concession to the Petitioner shall mean doing injustice to the other teachers in whose cases the Respondent-University has been disallowing the study leave for doing Ph.D. unless their having completed 5 years of minimum continuous service as a teacher in the University especially because of the fact that a teacher having done Ph. D. Degree as in-service candidate becomes entitled for the benefit of 3 years service for the purpose of grant of senior scale.

17. We make it clear that the Petitioner cannot avail of this benefit of three years service for the reason that he is not an in-service candidate availing of the facility .of study-leave for the purpose of the Ph. D. programme.

18. For the aforesaid reasons, we quash Annexure P-I and direct the second Respondent to permit the Petitioner to register for two more semesters in the Ph. D. programme of the University in Entomology and Apiculture.

19. The writ petition is allowed. The parties are left to bear their own costs.

Bhaavans Singh, J.

20. I have read the judgment of my Lord the Chief Justice but, respectfully, my views are at variance with that of the majority of my learned brethren. Desirability of unanimity, if possible,without sacrifice of conviction, is good, but unanimity that is merely formal and recorded at the expense of strong conflicting views is not desirable. As observed by Chief Justice Hughes, Judges are not there simply to decide cases, but to decide them as they think they should be decided, and while it may be regrettable that they cannot always agree, it is better that their independence should be maintained and recognized than that unanimity should be secured through its sacrifice (Prophets with Honor by Alan Earth 1974-Ed. P. 3-6). I proceed to deal with the matter in my own way.

21. The facts, in. brief, are that the Petitioner is undergoing his research for the degree of Doctor of Philosophy in the Department of Entomology-Epiculture as a Post-Graduate student in. the Doctoral Programme in Dr. Y. S. Parmar University of Horticulture and Forestry, Solan. Under Regulation 4, the normal duration of this programme spreads over to six semesters. However, in the case of a particular student, the normal duration of a programme may be increased or decreased by two semesters by the Dean on the recommendation of the Advisors and the Head of the Department. The Vice-chancellor, on the recommendation of

the Dean, may further permit a student to register for two more semesters in the programme.

22. The Petitioner submits that after the completion of course work, research credits and comprehensive examination, he has to complete the thesis, seminar and thereafter submit his thesis for which he required 2-3 months. Accordingly, prayer for the extension by two semesters was made which was rejected by the Vice Chancellor through communication on 22-12-1939 (Annexure P-I). Thereafter, two representations dated 26-12-1989 (Annexure P-2) and 27-12-1989 (Annexure P-3) were moved.

23. Farther, the case of the Petitioner is that he was appointed to the post of Assistant Scientist (Epiculture) at the Regional Horticultural Research Station in July, 1989 and one of the terms of appointment is that the Petitioner is to do his Ph.D. within eight years from the date of joining or else he would cease to earn increments till the attainment of this degree. There is no prohibition for employees of the University for doing Ph. D. and the University had been permitting teachers to do this degree in the past but the Petitioner is being discriminated in the matter of grant of extension in the duration of this degree beyond eight semesters on the ground that he is an employee of the University, thus, violating Article 14 of the Constitution. In these circumstances, the action of the Vice Chancellor, is arbitrary, irrational, discriminatory and not in accordance with the relevant considerations to be taken into account while deciding whether extension for two semesters is to be granted or not and the fact that the Petitioner is employed with the University is no ground to deny the Petitioner further extension prayed for. The Petitioner further submits that he has applied for permission to do this course by allowing him leave of the kind due/extraordinary leave and in case he is not permitted to join the 9th semester, his whole work and studies undertaken by him will go waste.

24. The Petitioner also contends that he could not complete the degree within the normal time since his work-Breeding of Honey Bees *A. Mellifera* for honey production through Artificial Insemination-was first of its kind in the country and it took two years for standardization thereof by the Petitioner and due to difficulties in the availability of data and other facilities, more period was consumed. In nutshell, the contention of the Petitioner is that these factors were relevant factors to be taken into consideration for allowing or disallowing him extension of semesters and not that the Petitioner is an employee in the University. Thus the Petitioner seeks Mandamus directing the University to permit him extension for two more semesters.

25. On the other hand the case of the Respondents is that the Petitioner could not be given extension in semesters since he joined the University service as Assistant-Scientist in the Regional Horticultural Research Station, Jachh (Nurpur) on July 29, 1989 and the Petitioner sought permission for registration for the 9th semester as an employee of the University which could not be permitted under the Statutes and Academic Regulations of the University. It is pointed out that

the Petitioner registered himself in the 8th Semester on 24-7-1989 before he joined on 29-7-1989. Pursuant to his joining the University, the Petitioner became an employee of the University, so, his eligibility was to be examined afresh and differently. The Petitioner could not be the staff-member and a student; simultaneously. The factum of joining the University service was not disclosed to the Dean who recommended his case on the assumption that the Petitioner was pursuing his studies in the same form as he had been doing before. Moreover, the Petitioner had not requested for permission to withdraw from the College for a semester on account of his getting the employment as envisaged under academic Regulation 37(b)(iv) Further, Academic Regulation 160) restricts the admission of in service candidates of the Dr. Y. S. Parmar University of Horticulture and Forestry to only Ph. D. degree programme and that too in those subjects in which facilities in other institutions in the country are not available. Under Regulation 16 (fv). the in service teacher of this University has to get his leave sanctioned by the competent authority before he seeks admission for pursuing higher studies. The letter of appointment specifically provides that the service conditions of the Petitioner will be governed by the University Act, Statutes and Rules/ Regulations framed there under from time to time. Similarly, according to these terms of appointment, the Petitioner has to complete his Ph D. within a period of 8 years from the date of his joining and in case he fails to do so, increments will not be admissible till completion. Further, there is provision for study leave to a teacher who has completed five years of continuous service in the University. The representations moved by the Petitioners could not be considered since they were against the provisions of the University Rules. It is also averred that the University had been giving study leave to teachers on completion of five years continuous service for doing Ph. D. In case the Petitioner is allowed study leave and permitted to pursue his Ph. D. course, this would amount not only discarding unjustifiably the past established practice in the University but also doing injustice to many teachers who are genuinely waiting in a queue to apply for study leave and do Ph. D. on completion of five years continuous service in the University. The Petitioner, according to the University, had a choice either to join the service and wait for five years to do and complete his degree or suspend joining the service after seeking due permission from the University for that purpose and complete his Ph. D. degree. The Petitioner having opted to pursue the first course by joining the service, cannot claim to pursue the other course as well in view of statutory prohibition. It is also the case of the University that granting of permission to in-service candidates of the University casually and indiscriminately will cause immense damage to the academics and in order to avoid intellectual inbreeding in the University, Regulation 16 (ii) was incorporated. The kind of intellectual inbreeding has been seriously disfavoured by the Scientists at the national level and every effort has been made to stop this kind of growth.

26. In the State of Himachal Pradesh, initially there was only one University, namely, the Himachal Pradesh University Shimla. It had two campuses, at

Palampur and Solan. Then came the Himachal Pradesh Krishi Vishva Yidyalaya at Palar pur followed by Dr. Y. S. Parmar University of Horticulture: and Forestry at Solan. The latter two Universities are governed by the Himachal Pradesh Universities of Agriculture, Horticulture and Forestry Act, 1986 (Act No. 4 of 1987). Both the Universities have been established to achieve distinctive and distinguishing objects mentioned therein. Dr. Y.S. Parmar; University of Horticulture and Forestry, stated to be the fir of its kind in Asia, have the main object of dealing with horticulture and forestry education, research and extension. It h; immense powers which find mention in the Act, Statutes and the Regulations. Sections 12 and 13 of the Act deal with the Board of Management of the University, its constitution and power Section 14 of the Act deals with the Academic uncil of the University. The relevant part thereof states:

14 (1) There shall be an Academic council for t] University which shall, subject to the provisions the Act and the Statutes, superintend, direct and control and be responsible for the maintenance of standard of instructions, education and examinations and other matters connected with the conferment of degrees in award of diplomas and certificates shall exercise such other powers and perform such other duties as may 1 conferred or imposed on it by the Statutes. It should advise the Vice Chancellor on all academic matte of the University".

27. Further Section 15 of the Act, inter alia, provides that:

15. (1) The academic council shall, subject to the provisions of this Act and the Statutes, have the power to regulate and prescribe all courses of study and determine curricula and shall have general control of teaching and other educational programmes within the University and shall be responsible for the maintenance of standards thereof.

(2) It shall have power to make Regulations consistent with this Act and the Statutes relating to all academic matters subject to its control and to amend or repeal such regulations.

(3) In particular, and without prejudice to the generality of the foregoing powers, the Academic Council shall have power to

(i) advise the Board on all academic matters including the control and management of libraries;

(ii) Make recommendations for the establishment of new colleges, departments, experimental stations, sub stations, professorships, associate processor-ships, and other teaching posts including posts in research and extension education and in regard to the duties hereof:

3(iii)

3(iv) Make regulations regarding the admission of students to the University and determine the number of students to be admitted;

3(v) make regulations relating to the course of study leading to degrees,

diplomas and certificates ;

3(vi) make Regulations relating to the conduct of examinations and maintain and promote standards;

3(vii) make recommendations regarding post graduate teaching, research and extension education ;

3(viii) xxxx

3(ix) xxxx

3(X) exercise such other powers and perform such other duties as may be conferred or imposed on it by or under the provisions of this Act.

28. Section 16 deals with the Extension Council for the University while Section 17 envisages Research Council for the University. Section 18 refers to Board of Studies for each college of the University. u/s 23, the Governor, by virtue of his office is the Chancellor of the University. u/s 21, he appoints the Vice Chancellor on the recommendations of the Selection Committee. The Vice Chancellor is the principal executive and academic officer of the University and ex-officio Chairman of the Board and the Academic Council. Section 25(4) of the Act provides that:

The Vice Chancellor shall ensure the faithful observance of the provisions of this Act, the Statutes and the Regulations and he shall exercise such powers as may be necessary in that behalf

Again Sub-section (10) of Section 25 says. -- "The Vice Chancellor shall be responsible for the proper administration of the University and for a close co-ordination and integration of teaching, research and extension education.

29. Sub-section (12) of Section 25 of the Act provides:

The Vice Chancellor shall exercise such other powers, as may be prescribed, for carrying out the purposes and provisions of this Act.

30. Section 53 of the Act deals with the framing of Statutes. It says:

53. Subject to the provisions of this Act, the Statutes of the University may provide for any matter and shall, in particular, provide for the following matters, namely:

(a) the constitution, powers and duties of the authorities of the University:

(b) x x x x (c) x x x x (e) x x x x (f) x x x x (g) x x x x (h) x x x x (i) x x x x (j) x x x x (k) x x x x (l) x x x x (m) x x x x (n) x x x x (o) the admission of students to the University and their enrolment and continuance as such;

(p) x x x x (q) the conditions under which students shall be admitted to the degrees, diplomas or other courses and the manner in which the examinations are to be held and the eligibility for the award of degrees and diplomas ;

(r) x x x x (s) x x x x (t) the number, qualifications, emoluments and other conditions of service of officers, teachers and other employees of the University and the preparation and maintenance of record of their services and activities ;

(u) x x x x (v) x x x x (w) x x x x (x) x x x x (y) all other matters which by this Act are to be or may be provided for by the Statues.

31. Section 55 of the Act deals with the powers to make regulations. The relevant provision thereof may be stated thus.

55(1) Any authority of a University may make regulations consistent with this Act and the Statues for:

(a) xxxx

(b) providing for all matters which by this Act or the Statutes are to be provided for by the Regulations ; and

(c) providing for any other matter(s) solely concerning the authority and not provided for by this Act and the Statutes.

(2) xxxx

(3) The Academic Council may, subject to the provisions of the Statutes, make regulations providing for courses of study, system of examinations and degrees and diplomas of the University, after receiving drafts of the same from the college faculty concerned.

(4) xxxx

(5) The Board may, in. such matter as it may specify, direct the amendment of any Regulation made under this section of the annulment of any Regulation made Under Sub-Section (2)

31-A. The Statutes of this University have been framed u/s 54 of the Act. Statute 1.307/) defines "employees" as under:

Employees" mean whole-time employees (including officers and teachers) other than part-time employees, honorary employees or those paid from contingencies.

32. Statute 2.5 mentions powers of the Board of Management other than those provided in Section 13 of the Act. Similarly, Statute 2.6 deals with the powers of the Academic Council of the University in. addition to the powers and functions provided in Section 14 of the Act. Sub-clause (2) of Statute 2.6, inter alia, provides that:

(2) In Addition to powers and functions as specified in Section 15 of the Act, the Academic Council shall have the following powers:

(i) to initiate measures for improving the quality of teaching, students evaluation and student advisory service ;

(ii) to recommend candidates for diplomas, degrees and certificates to be conferred by the University;

(iii) xxxx

(iv) xxxx

(v) xxxx

(vi) to make recommendations for the approval of the Board regarding the fixation, payment and receipt of fees, etc., and penalty for non-payment of such dues in time by the students of the University ;

(vii) to advise the Board on proposals for new expenditure on teaching, research and extension education in the University ;

(yiii) xxxx

(ix) to make regulations for the maintenance of discipline, and for regulation of the conduct of the students in the colleges and hostels of the University; and (x) to consider any other academic matter.

33. Statute 2.9(4), refers to the powers and duties of the Board of Studies to the following effect:

(4) the Board of Studies shall exercise all the powers and perform all the duties conferred on it by the Act. It will be the duty of the Board to:

(i) to propose courses of study for various programmes of instructions ;

(ii) to determine the curricula of different programmes of studies ;

(iii) to suggest measures to improve the standard of teaching and of the student assessment; and

(iv) to suggest changes in regulations regarding admission, instructions, continuance and examinations of students in the college.

34. Statute 3.2, deals with the Deans of Colleges and their powers under Sub-clause (4) which, among other matters, states:

(4) In addition to the duties specified in Sub-sections (1) and (2) of Section 27 of the Act, the powers and duties of the Dean of the Colleges shall be as follows:

(i) xxx xxx xxx

(ii) He shall look into and be responsible for the due observance of provisions of the Act, the Statutes, the Regulations and the directions issued by the authorities of the University or the Vice Chancellor in so far as they relate to his college with regard to the resident instructions.

(iii) xxx xxx xx x

(iv) xxx xxx xxx

(v) He shall supervise the registration and progress of the students in the college.

(vi) xxx xxx xxx

(vii) xxx xxx xxx

(viii) xxx xxx xxx

(ix) he shall, in collaboration with the Director of Research, be responsible for the co-ordination of research of the post-graduate students and its integration with the general research programmes of the University.

(x) He shall maintain record of post-graduate students of his college and also supervise their progress.

(xi) xxxx

(xii) xxxx

(xiii) He shall perform such other duties and functions as may be assigned to him by the Vice Chancellor.

35. Statute 46 in Chapter IV deals with the qualifications for appointment to the post of Teacher and the composition of the Selection Committee. Item (3) of the table mentioned under this Statute deals with the post of Assistant Professor or equivalent. It is as under:

Sr. No.	Name of the post	Qualifications	Composition of Selection Committee	1	2	3
4	3. Assistant Professor	(1) Ph.D. degree in the Same as for the post of or equivalent concerned subject	Associate Professor.	re-laxable to M. Sc. with consistently good academic record.		

(2) In case a candidate selected for appointment holds Masters degree, he will have to obtain Ph. D. degree within 8 years of the date of appointment failing which he shall cease to earn increments) till he obtains Ph. D. degree. Provided Qualifications for Assistant Professor/ equivalent in Agriculture Engineering shall be M.E.1st Class.

36. Chapter IH of the Statutes deals with the conditions of service of officers, teachers and other employees of the University and preparation and maintenance of records of their service and activities. It also provides, among others, conditions of service, grant of various kinds of leave admissible to them. Statute- 7.22 states that the Teachers of the University will also be eligible- for study leave and sabbatical leave in addition to other types of leave. Statute 7.23 specifically deals with study leave. It provides for the grant of study leave under various circumstances and conditions. Statute 7.23(1) says:

No teacher shall be entitled to this leave as a matter of right and shall not be granted if the applicant has not completed five years of continuous service in the University.

Sub-statute (19) there of envisages that:

Study leave shall normally be admissible to eligible teachers for pursuing studies)courses duly approved, only outside the University except in those disciplines where the facilities for such study do not exist in any other University of the country.

Statute 7.27 enjoins that:

Any matter regarding conditions of service not covered by the provisions of this statute may be decided in accordance with the rules laid down by the Himachal Pradesh Government for its own employees or in such other manner as the Vice Chancellor with the approval of the Board or under the powers delegated to him by the Board may deem fit.

37. Statute 20.1 under Chapter XX refers to admission of Students to the University, their enrolment and continuance. It provides that:

20.1 (i) Subject to the provision made in Section 6 of the Act. the students shall be admitted to the different colleges]institutions of the University in accordance with the regulations framed by the Academic Council.

(ii) the number of students to be admitted each year in various colleges shall be approved by the Academic Council on the recommendations of the concerned Board of Studies.

(iii) Applications for admission to various colleges shall be received by the Registrar not later than a prescribed date and on forms approved for the purpose.

(iv) Admission requirements to various degrees, diplomas etc. shall be such as laid down by the Academic Council on the recommendations of the concerned Board of Studies.

38. By virtue of the powers conferred by Section 55 of the Act, the Academic Council of the University has framed academic regulations from 1-1-1986. Regulation 2 deals with the interpretation thereof It states:

Subject to such advice as may be given by the Chancellor, the decision of the Vice Chancellor shall be final in respect of interpretation of these regulations.

39. Regulation 4 deals with the normal duration of different programmes already extracted in the earlier part of this judgment. Regulation 16 provides for reservation of seats to various categories, out of total intake of the students as well as those who are to be admitted over and above the intake capacity of the department concerned, it is this regulation which falls for interpretation in the present case since the parties to the case have concentrated their principal submissions to this regulation.

40 This regulation divides the students into three parts. First part deals with the general students to which category the Petitioner belonged before joining the service. There is no dispute up to this stage amongst the parties. The dispute, as

a matter of fact, arises as to the application and construction of the second category mentioned under (it) of Regulation 16. The Petitioner admits that consequent upon his joining the University service he is an employee of the University within the meaning of Statute 1.3(H)- What he disputes is the reading of any prohibition, express or implied, into this provision entailing rejection of his prayer for the extension of his semesters. At this stage, it is necessary to quote this regulation in extension:

Reservation of seats.

16(i) Admission to various programmes shall be open to all eligible persons subject to the reservation of seats as under:

(a) 75% seats in each programme shall be reserved for domiciles of Himachal Pradesh and/or those who have passed their qualifying examination from a School/ University located within the territorial jurisdiction of Himachal Pradesh.

(b) Number of seats reserved for the ICAR nominees in a programme shall be limited to 10% or as prescribed by the Academic Council.

(c) The remaining seats shall be open to all.

(d) 22.5 % of the seats in categories (a) and (c) above shall be reserved for Scheduled castes (15%) and Scheduled Tribes (7-1/2%). In case the candidates in either of these categories are not available, the seat(s) will be interchangeable between these two categories.

(e) 60 % of the seats available in each category mentioned in (a) and (c) above shall be reserved for the candidates coming from rural areas out of which 10% seats are reserved for candidates belonging to IRDP category. In case no IRDP candidate is available, the seat(s) will be thrown open to the candidates from rural areas. A candidate passing his Matriculation/High School/Hr. Section Part-I examination from a school located outside the limits of Municipal Corporation/ Municipal Committee/Notified Area Committee/Cantonment Board shall be deemed to be a candidate hailing from rural area:

Provided that the above provision will not be applicable in the case of Post-graduate programmes.

(f) One seat in one of the Under-graduate programmes shall be reserved in alternate years for the sons/daughters of the serving . Ex-defence personnel from category (a) above. Under the category, preference shall be given to the sons/daughters of the defence personnel who are gallantry award winners. For filling up this seat, the proposal shall be referred by the Admission Committee to the Vice Chancellor for decision:

Provided that to the extent the candidate as prescribed in (d), (e) and (f) above are admitted on merit, reservation quota shall stand reduced correspondingly. Further, if no candidate is available under these categories, the vacant seat(s) shall be filled from open quota mentioned at (a) and (c) above as applicable.

(ii) The Academic Council may further approve admission to Post-graduate programme in respect of the in-service candidates nominated by the Dr. Yashwant Singh Parmar University of Horticulture and Forestry H.P. State Government! Autonomous bodies] Other State Governments (which do not have Agricultural Universities or specialization in a particular field). The admission of in-service candidates of the Dr. Yashwant Singh Parmar University of Horticulture and Forestry will be restricted to only Ph. D. degree programme and to those subjects for which facilities in other institutions in the country are not available.

The admission of in-service nominee will normally be limited to one seat in each department over and above the intake capacity.

(iii) A son/daughter of an employee who dies during service of the Dr. Yashwant Singh Parmar University of Horticulture and Forestry shall be admitted to any programme of study, subject to his/her eligibility, over and above the intake capacity.

(iv) The in-service teacher of the Dr. Yashwant Singh Parmar University of Horticulture and Forestry shall get his leave sanctioned by the competent authority before he seeks admission for pursuing higher studies.

41. The construction attempted to be placed on Sub-clause (ii) of Regulation 16 by the learned Counsel for the Petitioner has no substance. Perusal of this regulation clearly demonstrates that the Academic Council, in addition to the candidates falling in category other than this, may approve over and above the intake capacity of each department one seat in the Post-graduate programmes in respect of in service candidates who may be nominated by the University/H.P. Government/Autonomous bodies/other State Governments (which do not have agricultural universities or specialization in a particular field). The later part of this regulation confines the admission of in-service candidates of the University to only Ph. D. degree programme and. ill to those subjects for which facilities in other institutions in the country are not available. This means, the students who are not employees cannot be admitted against this category. It is a category which has to be filled up by nomination out of the many already mentied above. It specifically carves out the in-service candidates of the University and restricts their admission to only Ph. D. degree programme and that too in their subjects for which facilities in other institutions in the country are not available which means, in case these facilities are available in other institutions in the country, no in-service candidate of the University can be admitted to Ph. D. degree programme of the University. Further, even if an in-service candidate qualifies to be admitted within the meaning of this Regulation, in that event also, he has to get his leave sanctioned by the competent authority before he actually seeks admission for pursing higher studies under Sub-clause (iv) of Regulation 16.

42. There is salutary object: behind this provision. It has rightly been contended by The University that in case an in-service candidate is permitted to pursue "his studies in Ph. D. programme unrestrictedly, the same will lead to intellectual

inbreeding at the campus. Every student soon after completing his M. Sc. degree would seek employment quite easily and at the behest of the same department, become one of the members of the teaching fraternity and complete his Ph. D. degree with patronage of any of his colleagues who would be ready and willing to bestow the degree without looking to the standard and usefulness of the research. This will not only hit adversely the academic standards of the University but also prevent more talented and better qualified teachers and students from outside the University to join it. It is good that the scientists at the national level have taken care to prevent it and earlier the same is done better it would be for raising the level of teaching and standards of the University.

43. It is quite apparent that as soon as the Petitioner joined the University service, with his eyes open, he fell into the zone of in-service candidates. He could not continue the course as he had been doing in the past. His status changed and as a sequel to that different conditions became applicable. This is the only right interpretation of this provision and I am of the opinion that this kind of construction of the provision, by the Vice Chancellor under Regulation 2 is correct and the argument of the learned Counsel for the Petitioner that this provision, does not envisage any implied or express restriction on an in service candidate, the Petitioner in particular, has no substance.

44. Reproduction of numerous, provisions already extracted above demonstrates that the Academic Council of the University plays a most significant role in determining and shaping the academic life of the University. It takes vital decisions relating to academic matters in its various facets and academic regulations are framed by it. It better knows the requirement of the University and its policies, programmes and decisions are shaped accordingly. It may be true that the Regulations framed by the scientists may not be as precise and clear as the laws framed by an expert legal draftsman; however, the intention behind the relevant statutory provisions has been explained by the University in its submissions to the Court as well as in the reply-affidavit. Tinkering with academic matters of a University, without sound and sustainable reasons is not desirable. This is the trend of judicial pronouncements also.

45. In AIR 1986 S.C. 1448 *Rajendra Prasad Mathur v. Karnatka University and Anr.*), the challenge related to the decision of the University in not recognizing the examination, passed by certain students from Rajasthan and Udaipur Universities to be equivalent, for the purpose of admission in B. E. degree course of Karnataka University where the students were pursuing the course for a number of years. The decision, of the University was termed as arbitrary and wrongful. Recycling this contention of the Petitioners, the court observed:

It is for each University to decide the question of equivalence of an examination and it would not be right for the Supreme Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an

examination held within the State, having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University

(Emphasis mine)

46. To the same effect are the observations in *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, This decision was considered in *Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others*, wherein in para 17 of the Judgment, V.R. Krishna. Iyer, J. speaking for the Court observed:

Rulings of this Court were cited before ITS to hammer home the point that the Court should not substitute its judgment for that of academicians when the dispute relates to educational affairs. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. But university organs, for that matter any authority in our system, is bound by the rule of law and cannot be a law unto itself. If the Chancellor or any other authority lesser in level decides an academic matter or an educational question, the court keeps its hands off, but where a provision of law has to be read and understood, it is not fair to keep the court out. In *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, Gr. Jendragadkar, J. (as he then was) struck the right note:

What the High Court should have considered is whether the appointment made by the Chancellor had contravened any statutory or binding rule or ordinance and in doing so, the High Court should have shown due regard to the opinion expressed by the Board audits recommendations on which the Chancellor has acted." (Emphasis added). The latter decisions cited before us proudly conform to the rule of caution sounded in *Govinda Rao*. But to respect an authority is not to worship it unquestioningly since the bhakti cult is inept in the critical field of law in short, while dealing with legal affairs which have an impact on academic bodies, the views of educational experts are entitled to great consideration but not to exclusive wisdom. Moreover, the present case is so simple that profound doctrines about academic autonomy have no place here.

47. The matter in issue pertains to the eligibility of the Petitioner to pursue the studies after becoming an employee of the University. The statutory provisions, already extracted above, and their construction, indicate quite clearly that such like matters fall under the jurisdiction of the Academic Council of the University and the jurisdiction of this Court is limited to cases where there is clear violation of statutory provisions or the principles of natural justice or the action is actuated by bias. In my opinion, the case of the Petitioner does not fall under any of these categories. The conclusion, therefore, is that the case of the petitioner, after joining the University service, strictly falls within the prohibitions, namely, Statute 7.23 (i) and (19) read with Regulation 16(ii) and (iv) which specifically

deal with the point at issue and Regulation 37(6) (iv) which pertains to a situation when a student wants to suspend his semester temporarily

48. Sh. K.D. Sood, learned Counsel for the Petitioner laid great emphasis on the fact that the Petitioner was permitted to continue the course after seeking registration in the 8th semester. It was also submitted that the Petitioner started his research work since 1985 and by this time most of the work is complete. In such a situation, it is unreasonable to reject the prayer of the Petitioner and in case the same is not set aside by this Court, immense harm would be caused to the career of the Petitioner. I see no substance in any of these pleas. For a student who is continuing his research since 1985, it was, as a matter of fact, a routine exercise to get registered in the 8th Semester. In this case, it was done before the Petitioner was appointed in the university service. The Petitioner knew or is presumed to know the Rules and Regulations on this aspect. As already observed he need not have joined service and instead pursued his studies till the award of the degree and sought extension from the University for joining the service. The normal duration of the course is spread over six semesters but Petitioner went on seeking extensions. Even now much is still left to be done. A look at the provisions governing the award of Ph.D. degree shows that the Petitioner has still to tread a long arduous path before he can be declared an eligible recipient of this degree. It may be that his work may not be approved by the examiners or they may suggest changes and improvements before finally approving and recommending him for the award of the degree. All these steps are time consuming and before the assessment of his work, it cannot be said that his research work is of any importance to any one of the same is likely to injure his career. The challenge of the Petitioner on the ground that the University had been allowing teachers to undertake studies during service has no substance for the reasons, firstly, that these academic regulations came into force with effect from 1-1-1986; secondly, if the University had been so doing, it may be pursuing a wrong course which does not entitle the Petitioner to do so nor can the University be compelled to go against the statutory provisions and perpetuate the mistakes it had been committing in the past and, thirdly, the case of Dr. Amarjit Kaur has been specifically denied though there is not sufficient material available qua the others.

49. In view of the clear cut prohibition, the principles of equity cannot be invoked. A model statute is a blend of law and equity although they are often treated to be different owing to their distinctive origins. It is profitable to quote Beg, J. (as he then was) in Para 279 of *Additional District Magistrate, Jabalpur Vs. Shivakant Shukla*,

Sometimes Judges have spoken of the principles of "Justice, equity and good conscience" [See ILR 48 Cal. 388 and 426 : AIR 1921 Cal. 14 : (1887) 14 I Ind App 89 at p. 96 (PC) and AIR 1942 99 (Nagpur) as sources of "Common Law" in this country. One with some knowledge of development of law in England will distinguish the two broad streams of law there: one supposed to be derived from

the customs of the people but, actually based on judicial concepts of what custom is or should properly be ; and, another flowing from the court of the chancellor, the "Keeper of the King's conscience" who used to be approached when plain demands of justice failed to be met or caught in the meshes of Common Law, or, were actually defeated by some statute law which was being misused. The two streams, one of Common Law and another of Equity, were "missed" or "fused" by statute as a result of the Judicature Acts in England at the end of the last century in the sense that they became parts although they are still classified separately due to their separate origins. In Stroud's Judicial Dictionary, we find (See: Vol. I, 4th Edn. p. 517): "The Common Law of England is that body of law which has been judicially evolved from the general custom of the realm".

50. The Court normally declines to interfere for the assistance of persons who seek its aid to relieve them against express statutory provisions. (Craies on Statute Law 7th Edn. 9.73. A Statute must be given effect to whether a Court likes the result or not (See: Sri Nasiruddin Vs. State Transport Appellate Tribunal, . The Court has no power to nullify, destroy or divide the intention of the legislature by adopting a wrong construction or to shelter behind the comforting thought that courts of law have been established or ordained for the purpose of promoting substantial justice between the parties and that a technicality should not be permitted to over-ride justice [See: Ishwar Singh Sobha Singh v. Union of India 57 (59 PLR 537). If a law is passed for some particular purpose, a court will not countenance any attempt which may be made to extend the operation of the Act to something else which is quite foreign to its object and beyond its scope, and in the language of Lord Cairns, it would amount to "adopting a course for the purpose of doing what may be described as evading an Act of Parliament which their Lordships would not be prepared to sanction, but would discountenance and prevent, the exercise of a power so used." [See: Mecbeth v. Ashley (M4L.R.2U.L.SC 352]. "We are bound" says Jervis, C.J., "to construe the words in a statute (if they are plain, and unambiguous) in their ordinary sense, even though it does lead to absurdity and manifest injustice."" The duty of the court is to give effect to the provisions of the Statute however harsh the result may be. The individual cases of hardship or injustice have no bearing on the natural construction being rejected See: Martin Burn Ltd. Vs. The Corporation of Calcutta, the Court observed:

A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. A Statute must of course be given effect to whether a court likes the result or not

51. Alternatively, in case it is assumed that the University provision is capable of two interpretations, in that effect too, the construction placed by the University deserves to be accepted, in view of Principal, Patna College, Patna and Others Vs. Kalyan Srinivas Raman, wherein the Supreme Court while interpreting certain

provisions of the Academic Regulations of the University observed in Para 20:

Even on merits, we think we ought to point out that where the question involved is one of interpreting a regulation framed by them Academic Council of a University, the High Court should ordinarily be reluctant to issue a writ of certiorari where it is plain that the regulation in question is capable of two constructions, and it would generally not be expedient for the High Court to reverse a decision of the educational authorities on the ground that the construction placed by the said authorities on the relevant regulations appears to the High Court less reasonable than the alter native construction which it is pleased to accept ".

52. The net result of the aforesaid discussion is that there is no substance in any of the submissions of the Petitioner and the writ petition is liable for dismissal and is accordingly dismissed. No. costs.

P.C. Balakrishna Menon, C.J.

53. In the light of the decision of the Majority we quash Annexure P-1 and direct the second Respondent to permit the Petitioner to register for two more semesters in the Ph. D. programme of the University in Entomology and Apiculture.

54. The writ petition is allowed. The parties are left to bear their own costs.