

(1994) 04 GUJ CK 0027
In the Gujarat High Court

Rajeshkumar Jayantilal Joshi

APPELLANT

Vs

Govindbhai K. Shekhda and Others

RESPONDENT

Date of Decision : 21-04-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Gujarat Agricultural Universities Act, 2004 — Section 12(6), 8

Citation : (1994) 2 GLR 1783

Hon'ble Judges : S.M. Soni, J

Bench : Single Bench

Judgement

S.M. Soni, J.—Rule was issued in this petition by this Court on 7-3-1994. Ad-interim relief in terms of para 31(c) was also granted. In view of the same, respondents have filed their affidavits-in-reply and petitioner has filed rejoinder. With the consent of the learned Advocates for the parties, the matter is finally heard today.

2.1. Here is a University, which is going to be, according to respondent No. 1 its Vice-Chancellor, destitute if respondent No. 2 is not given charge of Registrar even for a period of three months. Here is a University, who finds dearth of persons for appointment to the post of Registrar, except the respondent No. 2. This business is poses eagerness and anxiety in view of the following facts:

2.2. Respondent No. 2 was appointed as Registrar somewhere in the month of February, 1984. He had committed number of irregularities and illegalities in discharge of his duties as the Registrar of the University. As Courts are the temple of justice, Universities are the temple of education. As respondent No. 2 had committed irregularities and illegalities a preliminary inquiry was held against him by an order dated 1-7-1988 by an independent authority. To hold that inquiry, an independent inquiry committee consisting of Mr. M.K. Desai, Retired District & Sessions Judge, Baroda and Mr. R.M. Patel, Vice-Chancellor of Sardar Patel University of Vallabh Vidyanagar, was constituted. The said Committee concluded that respondent No. 2 has run the Department of

respondent-University in a casual manner, bypassing all norms of running administration and has undermined the authority of the Vice-Chancellor and has also usurped the powers of the Vice-Chancellor. Said Inquiry Committee has also gave its finding that respondent No. 2 has committed an act of insubordination by defying and challenging the authority of the Vice-Chancellor and he has also tampered with the notes put up before the Vice-Chancellor, resolution of the Board and the Resolutions of the Post-graduate Selection Committee. In view of the said report of the Preliminary Inquiry Committee, the Board of Management of the respondent-University unanimously resolved to hold full-fledged departmental inquiry against respondent No. 2 for the alleged charges of misconduct. A Retired Judge of this Court, Hon"ble Mr. Justice J.P. Desai, was appointed as an Inquiry Officer to hold the departmental inquiry. Hon"ble Mr. Justice J.P. Desai (Retired), while summarising the conclusions, observed to the effect that the misconducts, which are found to be proved, are of very grave nature inasmuch as various corrections made in the resolutions are highly improper; charges of interpolation is proved beyond doubt; various acts of omission and commission are without authority and administratively not justifiable; whenever consultations required with the Vice-Chancellor, no consultation has been done; and promotions given to various employees by respondent No. 2 are held proved while the notings made by the office and recommended by the Vice-Chancellor speak other-way round. On the basis of the said inquiry report, a show cause notice for proposed penalty of dismissal was issued to the respondent No. 2. Taking into account the reply given by respondent No. 2 to the said show cause notice, the Board of Management of the respondent-University came to the conclusion that respondent No. 2 is definitely guilty of high degree of insubordination and upheld the findings of the Inquiry Officer. In view of the said decision, the Board of Management resolved that respondent No. 2 is guilty of grave misconduct and that he should not be permitted to hold any charge with the executive powers and responsibilities for a period of two years from the date of issue of the said order and that respondent No. 2 should not be posted back on the post of Registrar, which was held by respondent No. 2 earlier. It was also resolved that respondent No. 2 shall not be vested with any executive powers and responsibilities as a measure of punishment. The said decision of the Board of Management is dated 16-6-1992. In view of this position, it is clear that till 16-6-1994, respondent No. 2 shall not be posted back on the post of Registrar. After that order of the Board of Management, when the petitioner came to know that there is a move to revoke that order of the Board of Management, it was made clear before this Court in Spl. Civil Application No. 7806 of 1993 that the order has become final and has been accepted by the respondent No. 3 (respondent No. 2 in this case). It was also observed that:

Since the respondent No. 4 is no more a Registrar, and having regard to the facts and circumstances as reflecting from the impugned order and also having regard to the fact that other aspects of the matter after being alluded to having been

not pressed by the Learned Counsel appearing for the petitioner, it appears that there remains no ground for this Court to exercise its extraordinary powers under Article 226 of the Constitution of India.

With this observation, the petition came to be rejected. It is clear from this order that the order passed by the Board of Management has become final and also accepted by the respondent No. 2.

3. In addition to the facts stated above, it will be relevant to state for tire purpose of this petition that respondent No. 3-State has addressed a letter dated 2-9-1993 to the present respondent No. 1 to the following effect A

That continuing Shri R.J. Patel, Registrar, after having retired as Registrar in the cadre of teacher for a period of two years in the services of the University, considering his lien in that cadre, is not according to law. Shri R.J. Patel was appointed as Registrar after being selected and he is required to be superannuated at the age of 58 years, which applies to the post of Registrar. The continuation of his lien in the cadre of Teacher after being appointed as Registrar on being selected, is contrary to rules and on proper consideration of the same, the Government has come to the conclusion that Shri R.J. Patel, Registrar, be superannuated as per the age limit of Registrar and thereafter he shall not be re-appointed or be given additional charge on any other post and care be taken for the same.

It is also stated in that letter that Shri Patel is likely to raise a Court case pertaining to his age of superannuation and obtain injunction. Therefore, proper care should be taken and a caveat be filed for the same. From this letter, it is clear that the Government has instructed the respondent No. 1 Vice-Chancellor not to appoint respondent No. 2 on the Post of Registrar. Respondent No. 1 was also directed not to reappoint No. 2 on any other post in the University.

4. Unfortunately, despite the finding of the independent Committee as well as the Inquiry Officer and the same being accepted by the Board of Management, respondent No. 1 has passed an order dated 25-2-1994, Annexure "F", in exercise of powers u/s 12(6) and Section 8 of the Gujarat Agricultural University Act and appointed respondent No. 2 as Registrar of the said University in view of the administrative exigency. This order is challenged by the petitioner in this petition.

5. This petition is opposed by the Learned Counsel appearing for me respondent No. 1 on the grounds that the appointment is made for temporary purpose, as no person to man the post of Registrar is available and secondly that necessary proceedings for filling up the post are commenced and on appointment of a person as a regular Registrar, the term of the respondent No. 2 would come to an end. Mr. Shelat, in the alternative, contended that initially also, despite the order of the Board of Management, respondent No. 2 was permitted to hold the charge of Registrar (Academic). Here also, he requested this Court that respondent No. 2 be permitted to hold the charge of Registrar (Academic), for the simple reason

that examinations are fast approaching and in some cases they are already commenced and secondly immediately thereafter the question of results of the students will arise and on results being declared, questions of admissions will also arise and then the question of convocation will also required to be decided. Mr. Shelat contended that till the completion of all these things by the respondent-University, they may be permitted to continue the respondent No. 2 as a Registrar. Mr. Shelat, learned Advocate for the respondent No. 1 as well as learned Advocate Mr. J.R. Nanavati for respondent No. 2 have also opposed the petition on the ground of locus standi.

6. Mr. J.R. Nanavati, Learned Counsel appearing for the respondent No. 2, contended that petitioner has no locus standi to file this petition. He contended that unless there is a public injury established by the petitioner, he has no locus standi to prosecute the petition. To substantiate his argument, he has relied on the observations of the Supreme Court in the case of S.P. Gupta Vs. President of India and Others, . He has also relied on the judgment in the case of Janata Dal Vs. H.S. Chowdhary and Others, . He relied on the following observation:

47. We shall now briefly deal with the scope and subject of "public interest litigation" (PIL), the horizon of which is widely extended and which at present constitutes a new Chapter in justice delivery system acquiring a significant degree of importance in the modern legal jurisprudence practiced by Courts in many parts of the world, based on the principle "Liberty and Justice for All.

Public Interest Litigation its origin and meaning.

48. The question, "what "PIL" means and is?" has been deeply surveyed, explored and explained not only by various judicial pronouncements in many countries, but also by eminent Judges, jurists, activist, lawyers, outstanding scholars, journalists and social scientists, etc. with a vast erudition. Basically the meaning of the words "Public Interest" is defined in the Oxford English Dictionary. 2nd Edition, Vol. XII as "the common well being... also public welfare."

49. In Shrouds Judicial Dictionary, Vol. 4 (IV Edition), "public interest" is defined thus:

PUBLIC INTEREST (1) A matter of public or general interest "does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community, have a pecuniary interest, or some interest by which their legal rights or liabilities are affected", (per Cambell C.J., R. v. Bedfordshire (1855) 24 LJQB 81 .

50. In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows: "Public Interest - Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, State or

national Government...

51. The expression "litigation" means a legal action including all proceedings therein, initiated in a Court of Law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression "PIL" means a legal action initiated in a Court of Law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. There is a host of decisions explaining the expression "PIL" in its wider connotation in the present-day context in modern society, a few of which we will refer to in the appropriate part of this judgment.

52. It would be quite appropriate in the case on hand to analyse both the basic features and the evolution and profound transformation of the developing and growing PIL in modern society. Suffice it to say that the challenges facing this meliorable litigation are examined in the light of their social, economic, political and ideological causes; and that the solutions to be adopted by the legal system to meet those challenges are explored, since there is still an ocean of unmet needs. These challenges are: (1) The expanded role of Courts in the modern "social" State and the new demands for judicial responsibility; (2) the rise and growth of varied systems of judicial review and the legitimacy of such development; (3) the emergence of the notion of "access to justice" as a judicial answer to egalitarian ideals and demands for effectiveness, and the development of PIL, and (4) the role of Courts in promoting the legal system in the arena of PIL. The relentless efforts taken by Courts in meeting all those challenges, in fact, strive for a optimality in which the interest of the least advantaged is given an overriding priority. During the last three decades, judicial activism has opened up new dimension for the judicial process and has given a new hope to the justice-starved millions. On the question of legitimacy of the PIL and the significant importance of its various aspects in the context of the present-day felt needs, stimulated by emergence of a variety of new social movements and societal exigencies, this Court has laid down long line of decisions, outlining the evolution of PIL, its vital issues and problems relating to the focus, choice of relief methods, the means and the administrative strategy for litigation and the demand for distributive justice for resolving of complicity of social problems and creating genuine initiatives so that this new activism may be more meaningful social justice. Thus, the concept of PIL which has been and is being fostered by judicial activism has become an increasingly important one setting up valuable and respectable records, especially in the arena of constitutional and legal treatment for the unrepresented and under-represented.

60. Be that as it may, it needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold.

68. As briefly pointed out in S.P. Gupta Vs. President of India and Others, , there

are certain exceptions carved out of the strict rule of standing, to be made applicable to PIL cases. By way of illustration, it may be stated that under Order XXXII of the Code of Civil Procedure, any person acting as the next friend of a minor may bring an action in his name for judicial redress. So also any other person other than the person under detention may file an application for issue of a writ of habeas corpus challenging the legality of the detention of the detenu. Similarly, the Judicial Committee of the Privy Council approved the exception to the strict rule of standing in *Durayappah v. Fernando* 1967 (2) AII.E.R 152 (PC): 1967 (2) AC 337. In United States of America also, though the exception has been recognised and the strict rule of standing has been liberalised in the interest of justice, it has been attenuated later on in some of the cases vide (1) *Data Processing Service v. Camp*. (1970) 397 US 150 : 25 L.Ed. 2nd 184; (2) *Flast v. Cohen*. (1968) 382 US 83 : 20 L.Ed. 2nd 947; (3) *Office of Communication of the United Church of Christ v. FCC* 23 US App. DC 328; (4) *US v. Richardson* (1974) 418 US 166, and (5) *Worth v. Seldin* (1975) 422 US 490.

87. From the above pronouncements, it emerges that this summit Court has widely enlarged the scope of PIL by relaxing and liberalising the rule of standing by treating letters or petitions sent by any person or association complaining violation of any fundamental rights and also entertaining writ petitions filed under Article 32 of the Constitution by public spirited and policy oriented activist persons or journalists or of any organisation rejecting serious challenges made with regard to the maintainability of such petitions rendered many virtuosic pronounce-ments and issued manifold directions to the Central and the State Governments, all local and other authorities within the territory of India or under the control of the Government of India for the betterment of the public at large in many fields in conformity with constitutional prescriptions of what constitutes the good life in a specially just democracy. The newly invented proposition of law laid down by many learned Judges of this Court in the arena of PIL irrefutably and, manifestly establish that our dynamic activism in the filed of PIL is by no means less than those of other activist judicial systems in other part of the world.

107. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the Court for vindicating any personal grievance deserves rejection at the threshold.

7. Relying on this judgment, Mr. Nanavati contended that it is only a person acting bona fide and having sufficient interest in the proceedings of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the Court

for vindicating any personal grievances, deserves rejection at the threshold.

8. The question, therefore, is whether in the present petition the petitioner is acting bona fide and has sufficient interest and whether he has approached the Court for a purpose which cannot be said to be oblique, and which affects the public at large.

9. One should not forget that the purpose of the University is not only to impart education in the conceded discipline, but it is the prime duty of the educational institutions to erbarce and impart moral duties and to raise moral standards. The prime purpose of the education is to see that the students, who are to enter the public market, come with a high moral standard. It is also known that the students more learn by watching things than by studying the same. Tendency of an imitation is inherent in a human being. If they know about some immoral activity of the person, it is likely to impress upon the students faster and with a strong grip than a normal activity. With this purpose in mind, one has to look to the appointment of the respondent No. 2, may be for a short period. It is the prime duty of the Vice-Chancellor to follow the norms of the Board of Management It is the duty of the Vice-Chancellor to respect the resolutions of the Board of Management. It is equally the duty of the Vice-Chancellor to follow and obey the directions of the Government It is improper and contrary to the said norms of discipline to defy the order of the Government, for whatever purpose it be. Keeping in mind this, I would like to see whether there is any substance in the contention raised by the petitioner in the petition and whether the petitioner has a locus standi to challenge the order of appointment of respondent No. 2.

10. Respondent No. 1-Gujarat Agricultural University had 11 colleges, 56 agricultural research stations, 40 agricultural schools and 25 extension, education and training centres and its constituent units spread throughout the State of Gujarat. The said University has more than 175 Professors/Research Scientists, Extensionalists, more than 418 Associates, more than 662 Asstt. Professors/Asstt. Research Scientists/ Asstt. Extensionalists. The said University has in all total posts of teachers, administrative and technical staff to the tune of about 7,000. There are more than 3,000 students pursuing their higher education for acquiring various degrees and diplomas in the University and more than 30 lakhs of farmers of the State of Gujarat are directly or indirectly connected with the affairs of the respondent-University. Keeping in mind this set up of Gujarat Agricultural University and the purpose of the University as referred hereinabove, it is to be decided whether the act of respondent No. 1 in appointing respondent No. 2 as its Registrar is proper or not; the above action for misconduct against him is proper and just; and whether the petitioner has a right to challenge the said appointment in view of the proved misconduct of respondent No. 2 and the orders passed by the Board of Management as well as the Government.

11. It will be relevant to refer to some of the observations from para 19 in the

case of S.P. Gupta (supra). Relevant part from that paragraph is quoted hereunder:

There is also another reason why the rule of locus standi needs to be liberalised. Today we find that law is being increasingly used as a device of organised social action for the purpose of bringing about socio-economic change. The task of national reconstruction upon which we are engaged has brought about enormous increase in developmental activities and law is being utilised for the purpose of development, social and economic. It is creating more and more a new category of rights in favour of large sections of people and imposing a new category of duties on the State and the public officials with a view to reaching social justice to the common man...More and more frequently the conferment of these socio-economic rights and imposition of public duties on the State and other authorities for taking positive action generates situations in which single human action can be beneficial or prejudicial to a large number of people, thus making entirely inadequate the traditional scheme of litigation as merely a two-party affair. For example, the discharge of affluent in a lake or river may harm all who want to enjoy its clean water; emission of noxious gas may cause injury to large numbers of people who inhale it along with the air, defective or unhealthy packaging may cause damage to all consumers of goods and so also illegal raising of Railway or Bus fares may affect the entire public which wants to use the Railway or Bus as a means of transport. In cases of this kind, it would not be possible to say that any specific legal injury is caused to an individual or to a determinate class or group of individuals. What results in such cases is public injury and it is one of the characteristics of public injury that the act or acts complained of cannot necessarily be shown to affect the rights of determinate or identifiable class or group of persons: public injury is an injury to an indeterminate class of persons.

Keeping in mind these observations, it can be said that the Vice-Chancellor and the Registrar are such officials in the University, who not only imparts education, but also conveys moral standards, through the acts and omission in their administrative capacity while running the University. As stated in Geeta:

Accordingly, as stated earlier, the students normally follow and imitate what their teachers or the persons in authority behave and act.

12. When a person is appointed on the post of a Registrar, which is a key post in the University and which can be said to be eye, ear and perception of the Vice-Chancellor, he must be a man of good character. Normally, in any Government service or service in any public body, a person is required to produce a character certificate, which is to the effect that the person bears a good moral character. Question is whether respondent No. 2 will be entitled to get such a certificate from a person who knows about his past and in particular the inquiry held by the Inquiry Officer, who was not less than a Retired High Court Judge and who is found guilty of act of insubordination, etc. Here, respondent No. 1 himself has stated on oath in his affidavit-in-reply to the effect that "I say that the charges

proved before the Inquiry Officer show only administrative lapses or irregularities and usurpation of powers while acting in good faith." The words "while acting in good faith" are the words introduced by the respondent No. 1. Neither the Inquiry Committee nor the Inquiry Officer nor the Board of Management has found that the alleged administrative lapses or irregularities and usurpation of powers by respondent No. 2 was while acting in good faith. It is surprising from where and how respondent No. 1 came to know that said irregularities were while acting in good faith. If a person had such a past, particularly amounting to an act of indiscipline and insubordination and found guilty of administrative lapses or irregularities and usurping powers of the Vice-Chancellor, how could he be certified to be a man of good character? Here is the respondent No. 1 who has certified him to be a man of good character and has found none else but respondent No. 2 to be appointed as a Registrar, may be for a limited period of three months.

13. It will be relevant to refer to the first resolution passed by the Board Management, being Item No. 108.10 of Agenda wherein it is resolved as under:

It is hereby resolved that Shri R.J. Patel, Registrar (Academic) be continued on that post. However, he should not be entrusted with executive powers for two years. It is further resolved that taking into consideration the above resolution, Shri R.J. Patel is not required to be posted on the post of Registrar, where he was discharging his duties earlier, but with a view to debit the expenses for salary, post of Registrar (Academic) is temporarily created and on that post, the salary in the scale of his post, shall be continued to be debited.

From this resolution, it is clear that respondent No. 2 was allowed to act or continue on the post of Registrar (Academic) only with a view to allow him to draw the salary. However, it is made clear that he is not required to continue on his earlier post of Registrar. It was further resolved in that very resolution that it has been decided that the post of Registrar be filled up for a period of two years by asking the Government to send an Officer on deputation and till that time, Research Director and Head of Post-graduate Branch shall take the charge of the Registrar. This resolution was again reconsidered in the meeting dated 17-4-1993 of the Board of Management (113th meeting) at Junagadh. By that resolution, the earlier resolution is modified to the following extent:

An inquiry was entrusted to Retired Mr. Justice J.P. Desai of Hon'ble High Court. It transpires from the report of Mr. J.P. Desai that it is not found that Shri R.J. Patel has committed any financial irregularity, but administrative lapses are found. It is, therefore, resolved that Shri R.J. Patel should not be entrusted with charge of administrative Registrar for a period of two years. He should be entrusted with the duties of Academic Registrar during that time....

Thus, the earlier meeting of the Board of Management dated 11-6-1992 resolved to allow respondent No. 2 to be in the cadre of Registrar (Academic) for the purpose of drawing salary only and a direction was given to the respondent No. 1

to call for an Officer from the Government on deputation to man the post of Registrar. Immediately after 10 months, another meeting of the Board of Management was called, wherein that earlier decision of the Board of Management was modified and it was found that respondent No. 2 has not committed any financial irregularities, but it was only administrative irregularities. For what the post of Registrar is meant for? It can be said that it is an administrative head in the University, discharging different duties and functions. There can be no Registrar or an effective Registrar without any administrative powers. Even for the purpose of discharging the duties of Registrar (Academic), it is necessary to have certain administrative powers. Thus, despite the resolution of the Board of Management and the finding of the Inquiry Officer, more particularly accepted by the Board of Management, the respondent No. 1 has certified respondent No. 2 to the effect that the alleged acts of the misconduct were committed in good faith. This suggests on the relationship of the respondent No. 1 with respondent No. 2.

14. AS observed earlier in the case of S.P. Gupta (supra) and the v above-referred facts, it is clear that by introducing or employing persons like respondent No. 2 by the respondent No. 1, despite the directions of the Board of Management to call for a person on deputation from the Government to man the post of Registrar, the respondent No. 1 has shown that he has no regard for either the Inquiry Committee or the Inquiry Officer or the Board of Management and also his predecessor Vice-Chancellor, with whom respondent No. 2 has misbehaved, as a result of which the finding of the Inquiry Officer has been arrived at. If such persons are the persons to man the management of the University, they are to pollute the moral standards of the students. Their acts and conduct will reflect on the students' behaviour. Students may also feel that these are the things which need not be taken notice of as they may not affect the moral standards. If any of the students who has something about the moral standards, will feel shocked about the act of respondent No. 1, particularly in appointing respondent No. 2 even for short period of three months. In my opinion, this act of respondent No. 2 and found to be misconduct by the Inquiry Committee, Inquiry Officer and accepted by the Board of Management, damages or injures the moral standards of the students, who are to be graduated, post-graduated and to get doctorates from this University. In my opinion, this injury which is likely to be caused, is required to be taken care of and if it is done so by a public interest litigation, I think that this is a fit case to interfere with even at the instance of the petitioner.

15. It will be relevant to state that neither respondent No. 1, nor respondent No. 2 had been able to show as to what personal vengeance the petitioner had with respondent No. 2. Petitioner is not qualified and is not required to be considered for the post of Registrar. It is only that he works with the University and is in know of the things which are going on in the University. He has discharged his duties by bringing these facts to the notice of the Court for taking necessary action in the interest of students world of Gujarat Agricultural University.

16. We can apply another test about public injury. Suppose, in response to the advertisement given by the University on 6-10-1993 if a candidate having identical background like that of respondent No. 2 applies, will he be eligible for being considered for the post of Registrar? In my opinion, the answer should be in the negative. However, if in the opinion of the respondent No. 1 the answer is in the affirmative, what can be said to be the effect of the resolution passed by the Board of Management? The Board of Management has in clear terms found respondent No. 2 to be guilty of act of insubordination, having administrative lapses and administrative irregularities and usurption of powers and that power is of Vice-Chancellor. The Board of Management having found him guilty of alleged misconduct, has taken away from him the powers of Registrar. Government has directed not to entrust him with the duties pertaining to the office of Registrar and in particular the post of Registrar. Despite this, the respondent No. 1 feels that as none is available for the post, he was obliged to continue respondent No. 2 temporarily for the post of Registrar. It is clear from the record and the affidavits on record that no attempt is made by the respondent No. 1 to find out from any of the eligible persons from the staff to man the post of Registrar even for a period of three months. There appears to be some substance in what the petitioner has stated regarding certain news clipping. The said clippings are to the effect that respondent No. 2 acts in a manner whereby he usurps all the powers of the Vice-Chancellor and acts in the most autocratic fashion and giving contradictory evidence and mismanaging the University affairs. From all this, it can be clearly stated that here is a Vice-Chancellor, who has no respect or regard for the dignity of the post of Vice-Chancellor and in particular for his predecessor Vice-Chancellor. Here is a Vice-Chancellor who shows no concern for the decorum of the office of Vice-Chancellor and regard for the decision and action proposed and taken by the Board of Management. Here is a Vice-Chancellor, who, through the University though has to teach the lessons of dignity, decorum, mutual respect, falls short of many things. Here is a Vice-Chancellor who has no regard for the decision of the Government or is known to flout and/or disobey the same on putting his own interpretation. When the petitioner has referred to the resolution of the Government, which I have quoted hereinabove, the reply of the respondent No. 1 is that the direction of the State Government given as per Annexure "I" of the affidavit-in-reply is not legal and proper. This shows that respondent No. 1 has no concern whatsoever with the Government and can ignore the directions given by the Government, as if respondent No. 1 is an independent body who can act contrary to the views of the Government.

17. Main motto of any University is to impart education so that the students be upright, right conscious, self-confident, independent, noble, moral and learn lessons of discipline in which they study.

18. In a democratic State, one has to bear in mind that none is indispensable. Independence of India is as it was in 1947 despite number of Prime Ministers have been changed. During the tenure of one Prime Minister, it was felt every

time that what will happen to the Nation if this Prime Minister is not there. Yet, the Nation has not only progressed, but has raised its head in the international politics. So also in the University no Registrar can be indispensable. God blessed, if respondent No. 2 gets an opportunity better than this and may get employed somewhere, he will pay up of the notice charges and leave the post. What will happen to the University in that situation? So also, what will happen to the respondent No. 1 in absence of respondent No. 2? All this act of respondent No. 1 adumbrates of the capacity, efficiency, management and administration of the respondent No. 1. Here is a respondent No. 1, who is not able to manage without the respondent No. 2, who has no clear, blotless career even in the immediate past. Here is a respondent No. 1 who is not able to select a Registrar temporarily for a period of three months from amongst staff, from where there are number of eligible persons. It will not be out of place to mention here that this Court enquired from the petitioner as to whether any of the eligible persons are there in the University's employment to man the post of Registrar and he was asked to name them and get their consent. It is shocking to note that before the petitioner can go and approach those persons, it is the Vice-Chancellor or the respondent No. 2 who had approached them and consulted them and have stated before the Court that they have not been asked by the petitioner about their willingness to work as Registrar and they are not willing to work as Registrar. This indirectly shows and suggests to eliminate every candidate for the post of Registrar. The respondent No. 1 in collusion with the respondent No. 2 wants to see that University is put in such a helpless position that the order passed by the respondent No. 1 to appoint respondent No. 2 as Registrar is required to be not interfered with by the Court. It will be pertinent to note that though this Court granted ad-interim relief, the charge is not handed over to anybody else so that the functioning of the University may go on. It is only that respondent No. 1 has not allowed respondent No. 2 to work as Registrar. This is clear from what is stated by the respondent No. 1 in his affidavit. In my opinion, this also reflects again on the capacity of the Vice-Chancellor to administer the University. In view of this fact, I am of the opinion that the petitioner has a locus standi and is entitled to challenge the appointment of the respondent No. 2 in the interest of the students world of the said University and the public at large.

19. Mr. Shelat, learned Advocate for the respondent No. 1 contends that the respondent No. 1 be allowed to cont(sic) respondent No. 2 for a period of three months and only for the purpose of examinations, its results, admissions and convocation. I am of the opinion that respondent No. 1 is so adamant to see what he says should be the law and should be followed by everyone and he has created a situation to oblige even this Court to pass an order in the terms proposed by the respondent No. 1 through his Advocate Mr. Shelat. This attitude of any Officer holding a public office in the democratic State cannot be tolerated. At the cost of repetition, it is stated that none is indispensable in a democratic State, particularly when there are number of persons from whom respondent No. 1 could have selected one to man the post of Registrar for a period of three

months. It will be relevant to state that Principal of every college is experienced, used and in know of the procedure of examination. Principal of every college is in know of preparing results and declaring the same and Principal of every college can also learn the procedure of convocation easily. Someone should be given an opportunity to show his metal and without giving any opportunity to anybody, it is underestimating of those persons to say that no man is available to man the post of Registrar. It appears that the Board of Management resolved in June 1992 to seek someone from the Government on deputation to man the post of Registrar. No action is taken by the Vice-Chancellor for the same. I say so because there is nothing on the record to show that any action was taken by the Vice-Chancellor to fill up the post of Registrar as per the resolution of the Board of Management. There is nothing on the record to show that any attempt is made for filling up the post of Registrar. The advertisement, which I have referred above, is only published in October 1993 while the resolution of the Board of Management is of June 1992. This fact by itself speaks much about the collusion of the respondent No. 1 with the respondent No. 2. In view of this fact, the order at Annexure "F" is required to be quashed and set aside.

20. In the result, the petition is allowed. The order at Annexure "F" passed by the respondent No. 1 is hereby quashed and set aside. Rule made absolute. Respondent No. 1 shall pay the costs of this petition.