
(2015) 12 AHC CK 0012
In the Allahabad High Court
Case No : Writ A. No. 52224 of 2015

Tripuresh Tripathi

APPELLANT

Vs

J.A. Oliver and Others

RESPONDENT

Date of Decision : 23-12-2015

Acts Referred:

Constitution of India, 1950 — Article 143(1), 19(1)(g), 21A, 29, 29(2)
Delhi School Education Act, 1973 — Section 21, 28
University Grants Commission Act, 1956 — Section 14, 2, 26, 3
Uttar Pradesh State Universities Act, 1973 — Section 38(3)

Citation : (2016) 1 ADJ 86 : (2016) 2 ALJ 50

Hon'ble Judges : Vimlesh Kumar Shukla and M.C. Tripathi, JJ.

Bench : Division Bench

Advocate : Ashok Pande, for the Appellant; Amit Negi, Pratik J. Nagar, R.A. Akhtar, Supriya P. Nagar and Yogendra Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Vimlesh Kumar Shukla, J.—Tripuresh Tripathi, who is a practising lawyer in the High Court, has filed this writ petition in the nature of quo-warranto regarding the appointment of Vice-Chancellor and Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences, a Deemed University under the provisions of University Grants Commission Act, 1956. The prayer made in the writ petition is as follows;

"I. Issue a writ, order or direction in the nature of quo-warranto thereby asking to the opposite party No. 1 Mr. J.A. Oliver, Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences, Deemed University, Naini, Allahabad as to under what authority of law he is holding the office of Chancellor of the respondent institute deemed to be university and to remove him from the office of the Chancellor.

II. Issue a writ, order or direction in the nature of quo-warranto thereby asking to the opposite party No. 2 Mr. Rajendra Bihari Lal as to under what authority of

law he is holding a public office of Vice Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences, Deemed University, Naini, Allahabad and to remove him from the office of the Vice-Chancellor.

III. Issue a writ, order or direction in the nature of mandamus commanding the concerned Ministries of the Union & the State to hold an enquiry as to how the respondent No. 1 and 2 are continuing in the office of the Chancellor and Vice-Chancellor of the impugned Deemed University against the provisions of the Regulations framed by the UGC.

IV. Issue a writ, order or direction in the nature of mandamus commanding the respondent concerned to develop a mechanism and to appoint the officers to monitor the strict compliance of the Act and the rules/regulations so that in future no Vice-Chancellor of any University can function beyond the maximum period fixed by the law and is appointed as per the procedure prescribed by the regulation.

V. Issue any other suitable writ, order or direction which the Hon''ble Court may deem fit and proper in the circumstances of the case as also in the interest of justice.

VI. Allow this writ petition with costs."

2. The writ of quo-warranto as against Mr. J.A. Oliver, the Chancellor of the respondent University, has been prayed for on the ground that apart from working as Chancellor of the University, he is also the President of the society managing the University which is not permissible under law as the same is violative of Regulation 6.1 of the UGC [Institutions Deemed to be Universities] Regulation 2010. The writ of quo-warranto as against Dr. Rajendra Bihari Lal, the Vice-Chancellor, is being sought on the ground that the provisions contained in 6.2(I)(II) of the Regulations 2010 framed by the University Grants Commission were not followed in making the said appointment and the appointment of the respondent No. 2 Vice-Chancellor having been made in violation of the said Regulations, the writ be accordingly issued.

3. To the said writ petition in question, affidavit has been filed on behalf of institute in question as well as Mr. J.A. Oliver and Dr. Rajendra Bihari Lal and therein stand has been taken that the continuance in office is strictly as per the statutory provisions and action of University is fully protected under Article 30(1) of the Constitution of India. The response so filed has been sought to be rebutted by means of rejoinder affidavit and, thereafter, on the basis of pleadings that have come forward, arguments have been advanced on following terms.

4. Sri Ashok Pande, learned counsel for the petitioner, has tried to contend before this Court that University in question is not a minority institution and even if it is accepted to be a minority institution, the university is duty bound to comply with the terms and conditions of UGC Regulations and once admittedly the UGC Regulations have not at all been complied with then in all eventuality

this Court should come to rescue and relieve of the petitioner and liberate the institution from the aforementioned two persons, who otherwise have no authority to hold the public office in the capacity of Vice-Chancellor and Chancellor of the University concerned.

5. Sri R.A. Akhtar, Advocate, has submitted before this Court that University in question is duty bound to comply with the terms and conditions that have been so issued by the UGC and failure/non-compliance of UGC directions cannot be subscribed and here repeated letters have been written by the UGC but till today the University in question has not responded.

6. Sri Ravi Kant, Senior Advocate and Sri J. Nagar, Senior Advocate, have entered appearance on behalf of the institution concerned and private respondents alongwith Sri Amit Negi, Advocate, and it has been sought to be contended that present writ petition on the face of it is a motivated one as petitioner has no concern with the institution in any manner whatsoever and here whatever action has been taken, same are strictly in conformity with the provisions as are contained under Article 30(1) of the Constitution of India and here both the respondents i.e. Vice-Chancellor and Chancellor are man of repute in the academic field and unnecessarily challenge has been made whereas challenge, so made, on its face value, is not at all liable to succeed and is bound to fail, in view of this, present writ petition is liable to be dismissed.

7. After respective arguments have been advanced to set the record straight it is mentioned that earlier the petitioner had filed writ petition No. 1714 (SB) of 2014, Tripuresh Tripathi v. Dr. Rajendra B. Lal and others, before Lucknow Bench of this Court claiming therein the following reliefs;

"i. Issue a writ, order or direction in the nature of quo-warranto thereby asking to the opposite party No. 1 Mr. Rajendra Bihari Lal as to under what authority of law he is holding a public office of Vice Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences (Formerly Allahabad Agricultural Institute), Deemed University, Naini, Allahabad and to remove him from the office of the Vice-Chancellor.

ii. Issue a writ, order or direction in the nature of mandamus commanding the concerned Ministries of the Union & the State to hold an enquiry as to how the respondent No. 1 is continuing in the office of the Vice-Chancellor of the impugned Deemed University from last 14 years continuously in violation of the law which fixes the maximum tenure of 5 years for a person to hold the office of Vice-Chancellor.

iii. Issue a writ, order or direction in the nature of mandamus commanding the respondent concerned to develop a mechanism and to appoint the officers to monitor the strict compliance of the Act and the rules/regulations so that in future no Vice-Chancellor of any University can function beyond the maximum period fixed by the law and is appointed as per the procedure prescribed by the regulation.

iv. Issue a writ, order or direction in the nature of certiorari thereby quashing of the letter of appointment dated 15.3.2000, through which respondent No. 1 has been appointed as the Vice-Chancellor on the ground that the selection for the post of the present Vice-Chancellor was not done in accordance with the provision of the regulation of the University Grants Commission after summoning the same from the concerned respondents.

v. Issue any other suitable writ, order or direction which the Hon"ble Court may deem fit and proper in the circumstances of the case as also in the interest of justice.

vi. Allow this writ petition with costs."

8. The aforesaid writ petition was withdrawn by the petitioner with liberty to file fresh writ petition at Allahabad. The order dated 10.12.2014 passed by this Court, permitting the petitioner to withdraw the petition with liberty to file the same at Allahabad, is reproduced hereunder;

"On the matter being taken up today, Sri Ravi Kant, Senior Advocate, has raised a preliminary objection qua the territorial jurisdiction of this Court at Lucknow Bench to entertain the writ petition in question.

Sri Ashok Pande, learned counsel for the petitioner has contended that he proceeds to withdraw the writ petition with liberty to file a fresh at Allahabad.

Request made is accepted.

Accordingly, the present writ petition (PIL) is dismissed as withdrawn with liberty to file writ petition at Allahabad for the same cause of action."

9. Thereafter, petitioner filed civil misc. writ petition No. 68409 of 2014, Tripuresh Tripathi v. Dr. Rajendra B. Lal and others, before this Court with the prayer, as mentioned in the writ petition filed before Lucknow Bench of this Court and the same was again dismissed as withdrawn with liberty to file fresh writ petition challenging the by-laws of the Allahabad Agricultural Institute (now Sam Higginbottom Institute of Agriculture, Technology & Science) (hereinafter referred to as "AAI"). The order passed by this Court permitting the petitioner to withdraw the writ petition with liberty to file fresh writ petition, reads as under;

"The petitioner, who is an Advocate practising in the High Court, has filed this petition in the nature of quo warranto regarding the appointment of respondent No. 1, Dr. Rajendra Bihari Lal as the Vice Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences which has now been declared as a Deemed University by Notification dated 15 March 2000 in exercise of powers conferred under the University Grants Commission Act, 1956.

It is contended by the learned counsel for the petitioner that Dr. Rajendra Bihari Lal has been appointed as the Vice Chancellor of the Institution in breach of the provisions contained in the University Grants Commission Regulations on Minimum Qualification for Appointment of Teachers and other Academic Staff in

Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 20092. In this connection, reliance has been placed upon Regulation 7.4.0, which deals with the Vice Chancellor of the Institute. It is submitted that the selection committee was not constituted in accordance with the UGC Regulations and that the term of Vice Chancellor cannot be for more than five years, while in the present case the Vice Chancellor was appointed in 2000 till he attains the age of 65 years.

Sri Ravi Kant, learned Senior Counsel assisted by Sri Pratik J. Nagar and Sri Amit Negi on behalf of the respondent-Institution has, however, submitted that the present petition should not be entertained for the reason that the petitioner has no locus to file this writ petition and in support of his submission, he has placed reliance upon a judgment of the Supreme Court in *B. Srinivasa Reddy Vs. Karnataka Urban Water Supply and Drainage Board Employees' Association and Others*, . It is also submitted by learned Senior Counsel that the appointment of the Vice Chancellor was made strictly in accordance with the Rules and Regulations of Sam Higginbottom Educational and Charitable Society, contained in Part-A of the Articles of the Association. It is also submitted by the learned Senior Counsel that the appointment of the Vice Chancellor of the University was assailed by one Mr. Manoj Kumar Srivastava, which petition was ultimately dismissed by the High Court and the judgment is reported in 2007 (7) AWC 647: *Manoj Kumar Srivastava v. Union of India & others*.

Learned counsel for the petitioner has, however, placed reliance upon a judgment of the Supreme Court in *Hari Bansh Lal Vs. Sahodar Prasad Mahto and Others*, to support his contention that the petitioner has a locus to file this petition.

The submission of learned counsel for the petitioner is that the appointment of the Vice Chancellor is contrary to the provisions of the UGC Regulations framed by the University Grants Commission. It is not the contention of the learned counsel for the petitioner that the appointment of the Vice Chancellor of the University is contrary to the Rules and Regulations of the Society. The contention of the learned counsel for the petitioner, however, is that the provisions contained in the Rules and Regulations are contrary to the provisions of the UGC Regulations and, therefore, the Regulations will prevail. The petitioner has, however, not challenged the provisions of the Rules and Regulations of the Society as being contrary to the UGC Regulations.

We, therefore, in absence of any challenge to the Rules and Regulations of the Society do not consider it appropriate to examine the contention of learned counsel for the petitioner. Thus, without deciding the submission advanced by the learned Senior Counsel for the respondents that the petitioner does not have a locus to file the writ petition, we dismiss this petition.

At this stage, learned counsel for the petitioner states that the petition may be dismissed as withdrawn with liberty to file a fresh petition to challenge the Rules and Regulations of the Society.

As we have dismissed the petition only on the ground that the Rules and Regulations of the Society have not been challenged, we grant liberty to the petitioner to file a fresh petition, if so advised, but leave it open to the respondents to raise the preliminary objection that has been raised by them in this petition about the locus of the petitioner to file the writ petition."

10. In this backdrop writ petition in question has been filed before this Court wherein as already mentioned above pleadings inter-se parties have been exchanged.

11. As much has been said from the side of the petitioner in reference to the minority status of the institution concerned at the very outset we proceed to look into the backdrop of the fact that as to how the said university in question has come to existence. History of an institution can be best told by the institution itself, and here in the response that has been so filed, the journey undertaken by the institution, till date has been spelled out. The history of the institution is that while working under the North India Mission of Presbyterian Church in Allahabad Christian College, Dr. Sam Higginbottom became deeply involved in the social and economic problems of the people around him and his deep thinking in the matter took him to the conclusion that basic socio-economic problem of India was related to agriculture. Accordingly, the "Allahabad Agricultural Institute" was founded in the year 1910 by the Christian community on the southern bank of river Yamuna in the district of Allahabad under the Leadership of Dr. Sam Higginbottom for improvement of Agricultural Sciences and Technology in India for material and spiritual progress of the Country.

12. The AAI was established in 1910 as a Department of Allahabad Christian College (presently known as Ewing Christian College). In 1912, the Agricultural and Technical Departments of the College were shifted to the present site of the Institute on a 200 acres land acquired/purchased for the purpose of Agricultural College. In April 1913, the Agricultural and Technical Departments were bifurcated from the Arts and Science Departments of the Ewing Christian College under an independent budget. On 24.8.1916, separate council was constituted with the Principal of the College as its Ex-officio Chairman for the management of the Agricultural Department. In 1918, the Agricultural and Technical Department was de-linked from the Ewing Christian College altogether and was named as "Allahabad School of Agriculture". On 1.2.1919, the School was re-christened as the "Allahabad Agricultural Institute" providing a wider scope for expansion, development and broad based educational management. In the year 1924, three years" course in Farm Mechanics (restricted to Christians only) was started to prepare students for development of Rural Agricultural Farms. In the year 1924 the Board of High School and Intermediate Education, United Provinces (now Uttar Pradesh), recognised the AAI for a two years" Diploma Course in Agriculture. In the year 1932 the University of Allahabad recognised the AAI for B.Sc. (Agriculture) Degree. In the year 1934, the Government of India established Imperial Dairy Institute, Bangalore for studies in the field of Dairy

Sciences and in the same year it authorised the AAI to start Indian Dairy Diploma Course in Dairy Technology and Animal Husbandry.

13. In the year 1942, the University of Allahabad permitted the AAI to start B.Sc. Classes in Agricultural Engineering, the first degree of its type in the whole of Asia and the third in the world. In the year 1964, the University of Allahabad permitted the AAI to start Post-graduate classes in Agricultural Engineering, Dairy Technology, Agronomy, Agricultural Extension, Agricultural Bio-Chemistry, Animal Science, Horticulture, Agricultural Economics and Rural Sociology and Plant Pathology and to conduct research work. In the same year, the Institute also started B.Sc. (Home Economics) Course for girls. The AAI was having 600 acres of land on the Southern bank of River Yamuna alongwith well-equipped modern Laboratories, College Buildings, including Research Farms, Research Centres, Hostels, Canteen, Staff Quarters, Play-grounds, Botanical and Fruit Garden, Dairies, Poultryies, Piggeries, Goat and Sheep Rearing Sheds, Agricultural Engineering Research Laboratories and well equipped Library on the subjects relating to agriculture, agricultural science and technology, home-economics and education, in view of this, as It has all the trappings and paraphernalia required for an Agricultural and Technical University by Government Order No. 2606/32(4)-1171 (1A)-70 dated 13-6-1973, the Government of Uttar Pradesh constituted a high level committee for re-organisation of agricultural education and research in Uttar Pradesh. The Committee found that the AAI was of the status of an Agricultural and Technological University as it had wide resources and it recommended as an interim measure that the AAI should be raised to the status of an Autonomous College. As an associate college of the University of Allahabad, the AAI had its own Board of Studies, duly recognized by the University of Allahabad, which appointed its own examiners and set the papers. The examination schemes were prepared by the Registrar of the Institute and the University used to approve it. The AAI conducted all the examinations in its own campus and through its own resources and personnel. Practically, the entire work of teaching and examination of the AAI was done by the Institute itself, except the conferring of Degree which alone was done by the University of Allahabad. As an associated college of the University of Allahabad the AAI was having eight Colleges, i.e. (i) College of Engineering and Agriculture Technology, (ii) College of Agriculture, (iii) College of Rural Management, (iv) College of Religious Education, (v) College of Health and Environmental Sciences, (vi) College of Home Economics and Women's Development, (vii) College of Continuing and Non-Formal Education and (viii) College of Dairy Technology and Animal Husbandry. The University of Allahabad as back as in the year 1978 requested the State Government to recognize the AAI as a Professional Post-graduate College under Section 38(3) of U.P. State Universities Act 1973 read with Statute 13.01 of the First Statutes of University of Allahabad, 1976, so that necessary privileges and benefits may be extended to it. Later on, the Academic Council of the University of Allahabad in its meeting held on 23.07.1988 (Resolution No. 82) approved the Status of the AAI as a Professional Post-

graduate College. The resolution passed by the Academic Council of the University of Allahabad reads as under:--

"82. The Council considered the letter dated 23.6.88 of the Manager, Allahabad Agricultural Institute, Naini, Allahabad, which requests that "the Institute which is a Minority Christian Institute be given the status of an Associated Professional Post-graduate Institution alike Motilal Nehru Regional Engineering College, Allahabad, so that the Institute gets all such facilities as is given to Professional Institutions."

"It was resolved that the proposal of the Manager, Allahabad Agricultural Institute, Naini, be accepted and the Institute which is minority Christian Institute be given the status of an Associated Professional Post-graduate Institution alike Motilal Nehru Regional Engineering College, Allahabad, and recommends it to the Executive Council."

14. Subsequently the matter was taken up by the Executive Council of the University of Allahabad and the Executive Council in its meeting dated 23-11-1991 (Resolution No. 172) unanimously approved the recommendation of the Academic Council for giving the status of an Associated Professional Post-graduate Institution alike Motilal Nehru Regional Engineering College, Allahabad, to the Allahabad Agricultural Institute and for declaring an institution as a Deemed to be University under Section 3 of the University Grants Commission Act, the University Grants Commission had framed Guidelines in the year 1992. It has been considered to be a premier and renowned minority institution of the country by the Apex Court in the case of St. Stephen's College versus The University of Delhi, reported in 1992, Supreme Court Cases, Volume I, Page 558 (on page 574). Thereafter, in accordance with the Guidelines of 1992 (for declaring an institution to be a Deemed to be University) the AAI submitted its proposal for being declared a Deemed to be a University on 30.8.1994. This proposal was forwarded by the Ministry of Human Resource Development to the University Grants Commission for consideration. Paragraph 15 of the proposal submitted by the AAI to Ministry of Human Resource Development/University Grants Commission reads as under:--

"15. Being a Christian Minority Professional Institute under Article 30(1) of the Constitution of India, the Institute would be prepared to revise its Memorandum of Association and Article of Association as long as it is not repugnant to its Minority Character. The Allahabad Agricultural Institute is an All India Christian Institute and it is an Ecumenical Heritage of Christians of India, and therefore, it requires to be dealt with in accordance with the provisions of Article 30(1) of the Constitution of India."

15. The State of Uttar Pradesh by its letter No. 2348/12-8-96-900(7)/94, dated 16th October 1996 wrote to the Secretary, University Grants Commission that it has "No Objection" to the Institute being declared a Deemed to be a University. The State Government further assured the University Grants Commission that it

shall continue with the grant for the sanctioned posts, even after the grant of Deemed University Status. Pursuant to the submission of proposal by the AAI for being declared a Deemed to be a University, the Expert Team of the University Grants Commission visited the AAI on 15th & 16th May, 1997. The Expert Committee examined the proposal, checked all physical/infrastructural and academic Facilities available in the Allahabad Agricultural Institute AAI of the infrastructural facilities and academic achievements of the AAI, made the following recommendations:

"1. From the observations already made, it is evident that the Allahabad Agricultural Institute satisfies the norms laid down by the U.G.C. to be eligible for Deemed University status. Therefore, the committee recommends that the Deemed University status be conferred on Allahabad Agricultural Institute after getting the Memorandum of Association as per UGC guidelines duly approved.

2. The Institute should provide evidence that the endowment should verify whether the deposit amount of Rs. 20 lakhs in USA is in the name of the Institute approved by the RBI. Alternatively Institute should raise fixed deposit from Rs. 30 lakh as at present to Rs. 50 lakh as per the requirement."

16. As per the recommendation of the Expert Committee, the AAI revised its Memorandum and Articles of Association, Rules etc. along with evidence of financial security such as endowment etc. and submitted the same to the University Grants Commission on 15.4.1998. It also clearly mentioned in paragraph (iv) of the communication that "That the UGC expert team visited the Institute and it is submitted that the team was fully satisfied as the Institute fulfills all academic and infrastructural requirements as per UGC norms for Deemed University. The Institute has also submitted revised constitution (Memorandum of Association and Articles) as per UGC guidelines and under Article 30(I) of the Constitution of India ". Article VIII of the revised Memorandum of Association/Bye-laws submitted by the AAI to the University Grants Commission clearly speaks of protecting the rights of Minority Institution as guaranteed under Article 30(1) of the Constitution of India. This Article VIII of the revised Memorandum of Association is reproduced hereinunder for convenient perusal of the Hon"ble Court:--

"In exercise of the power and duties enumerated above the Board of Directors shall act in a manner consistent with the provisions of the relevant UGC Act/any other Act or order of Central/State Government so far as they may be applicable and are not repugnant to provisions of the Memorandum of the Association and the Articles of Associations of the Society, and rights of the Christian Minority Educational Institution as guaranteed under Article 30(1) of the Constitution of India."

17. State of Uttar Pradesh by its letter No. 3234/12-8-97-900[7] 94 D.U., dated December 9th, 1997, addressed to the Ministry of Human Resource Development clearly stated that -

18. On the basis of the (i) revised Memorandum and Articles of Association, (ii) No Objection Certificate by the State Government and (iii) Financial assurance by the State Government the University Grants Commission considered the recommendations of the Expert Committee and passed the following resolution on 17.4.1998:--

"1. The Commission noted that the Allahabad Agricultural Institute, Allahabad fully met the criteria for grant of Deemed to be University status under Section 3 of the UGC Act 1956. However, since the Institute has claimed minority status, the Ministry of Human Resource Development may have the matter of reservations for teachers, non-teaching staff and students examined. The Commission understands that the question as to applicability of reservations of SC's/ST's in Institutes having minority status, and seeking financial assistance from the Government, is one of the issues pending before the Hon'ble Supreme Court. The Commission recommends that the Ministry may consider granting Deemed to be University status to Allahabad Agricultural Institute, Allahabad subject to the condition that any decision of the Supreme Court would be binding on the Institute.

2. The State Government of Uttar Pradesh will provide Plan and Non-Plan development assistance to this Institute only upto the present level of commitments including any increase in pay, DA, and other allowances. The Institute has assured that it will be able to take care of its expansion in the future, both in terms of infrastructure and post. Even now the State Government does not meet fully the expenditure. The UGC will not provide any Plan or Non-Plan grant to the Institute. This has also been clarified to the Institute."

19. State of Uttar Pradesh by its letter No. 942/12-8-98-900[7] 94 T.C., dated May 30th, 1998, addressed to the Secretary, University Grants Commission submitted the financial assurance for the teaching and non-teaching staff regarding government approved posts and assuring the UGC that the Institute is a Christian Minority Institution and upon the declaration of Deemed University status it shall remain as a Minority Institution. The contents of the letter are reproduced hereunder: -

20. On 9.6.1998, the University Grants Commission recommended that the AAI (now Sam Higginbottom Institute of Agriculture, Technology and Sciences) be declared as a "Deemed to be University". It was specifically stated in the said letter that the Memorandum of Association of the AAI has been drawn in accordance with the UGC Model Memorandum of Association/Rules excepting the right to administer, admission policy and reservation of SCs/STs under Article 30(1) of the Constitution of India. Thereafter, on recommendation made by the University Grants Commission, the Central Government by notification dated 15.3.2000 declared the AAI to be a Deemed University under Section 3 of the University Grants Commission Act, 1956. The University Grants Commission in its 399th meeting held on 01.11.2001 has declared that the AAI (now Sam Higginbottom Institute of Agriculture, Technology and Sciences) still retains its

minority status. Relevant extract of the minutes of meeting dated 01-11-2001 is reproduced hereunder:--

"Out of the 51 existing deemed universities only the following two institutions are enjoying the minority status:

1. Allahabad Agricultural Institute, Allahabad (Christian Minority Institution)
2. Satyabhama Institute of Science & Technology, Chennai (Christian Minority Institution)

21. All these facts, that have been stated above, would go to show that the issue that has been raised on behalf of petitioner that the institution in question cannot be accepted as a minority institution, cannot be accepted by us for the simple reason that Apex Court in paragraph 14 of St. Stephen's College (supra) clearly proceeded to make a mention that this is a professional college which offers several courses of study in Agricultural Sciences and therein it has also been mentioned that It is undisputedly an institution established and administered by the Christian religious minority and in 1911 it was founded by Christians under the leadership of Dr. Sam Higginbottom. Once there is already a declaration by the Apex Court pertaining to the status of the institution in question and records in question are speaking for itself that it has been established by members of minority community and its affair is being administered by members of minority community, then such collateral challenge without any foundation and basis, cannot be accepted by this Court and this much fact has to be accepted that AAI has been established by minorities and is being administered by minorities and as per the judgment of Apex Court in the case of S. Azeez Basha and Another Vs. Union of India (UOI), the minorities have a right to establish institutions and establishment of institution includes universities also. In paragraph 21 of the aforementioned judgment a categorical mention has been made that the words "educational institutions" are of very wide import and would include a university also and therein the view of the Apex Court is that a religious minority has the right to establish a university under Article 30(1) of the Constitution of India, thus, cannot be disputed. The passing arguments, that have been so advanced before us, that minorities have no right to establish University and the only right that has been conferred to them is to open affiliated college, as per the provisions of National Commission for Minority Educational Institution Act 2004, has also no substance, for the reason that said Act has come into force w.e.f. 7.1.2005 whereas AAI, on the recommendation of University Grants Commission, the Central Government by means of notification dated 15.3.2000 has declared the same as Deemed University under Section 3 of University Grants Commission Act. Even otherwise, National Commission for Minority Educational Institution Act 2004 confers right to minority educational institution to seek affiliation to any university of its choice subject to such affiliation being permissible within the Act under which the said university is established. Affiliation is a statutory concept and may be obtained on the fulfilment of the conditions prescribed therefore by a statute. Provisions of National Commission for Minority Institution Act 2004 in no

way curbs the right of minorities to establish university also, and as far as establishment of university is concerned said exercise is to be undertaken in consonance with the provisions, as contained under University Grants Commission Act, 1956. Accordingly, the off hand submission that AAI has not been established and is not being administered by members of minority community, cannot be accepted by us and in our considered opinion it is a closed chapter that cannot be permitted to be reopened in such casual manner as there is nothing on record to reopen the same rather it is contrarily established from the pleadings and evidence brought on record that it has been established by the minorities and same is being administered by the minorities and with the passage of time the institution in question has grown up and ultimately reached to the status of University as provided for under clause (f) of Section 2 of UGC Act, 1956.

22. After the said issue in question has been answered the next issue is in reference of continuance of Mr. J.A. Oliver as Chancellor of the university concerned. The challenge that is being made is that Mr. J.A. Oliver by virtue of being President of the Society is disqualified to function as Chancellor of Sam Higginbottom Institute of Agriculture Technology and Sciences, a Deemed University, Naini at Allahabad.

23. In order to answer such an issue, we will have to go through the Memorandum and Article of Association of AAI which shows that after the institution in question has been accepted and declared as Deemed University a revised memorandum and articles of association has been submitted by the AAI to the UGC alongwith its letter dated 15.4.1998 and same became the First Constitution of the Allahabad Agriculture Institute Deemed-to-be-University. At the point of time when the status of Deemed University has been accorded by UGC a categorical mention has been made that the Chairman of the Society shall be the President of the Deemed University. Article XVIII B. of the Constitution of the AAI, which deals with the powers and duties of the President of the Board of Directors, AAI, is reproduced hereunder for ready reference;

"Article XVIII B. - Powers and duties of the President.

The Chairman of the Board of Directors, shall be President of the Deemed University who by virtue of his office be the head of the Institute and shall when present preside over meetings of the Executive Council and the convocations of the Institute/Deemed University. He shall be appointed by the Board of Directors and shall hold office for a period of 3 years and shall be eligible for reappointment."

24. In the year 1999 the University Grants Commission revised the Guidelines for declaring an institution to be a Deemed University. These Guidelines came into force in May, 2000 after the same were published in the Official Gazette of the Government of India. Accordingly, the Allahabad Agricultural Institute submitted an amended Constitution, keeping in view the amendments as proposed by the

University Grants Commission in the Revised Guidelines. The amended Constitution was also approved by the University Grants Commission. Article XIX-B of the Constitution of Board of Directors, Allahabad Agricultural Institute deals with the powers and duties of the Chancellor and provides that the Chairman of the Board of Directors, Allahabad Agricultural Institute shall be the Chancellor of the Deemed University. Article XIX-B of the Constitution of Board of Directors, is as follows:--

"Article XIX B. - Powers and duties of the Chancellor.

The Chairman of the Board of Directors, shall be appointed as Chancellor of the Deemed University by the Society, who by virtue of his office be the head of the Institute and shall when present preside over convocations of the Institute/ Deemed University and perform other functions appropriate to his office. He shall be appointed by the Board of Directors and shall hold the office for a period of 5 years and shall be eligible for reappointment."

25. Challenge to the appointment of Mr. J.A. Oliver has been made on the ground that clause 5.02 of the Regulations framed by the UGC that deals with the appointment of Chancellor of a Deemed University has come into force in July 2010 and as per the aforementioned regulations, that has come into force, by no stretch of imagination Mr. J.A. Oliver could have been appointed as Chancellor, inasmuch as, he happens to be the Chairman of the Society and under amended regulations the Chancellor should neither be a member of the Society or the Trust nor a close relative of the President of the Society or the Trust.

26. In order to appreciate the respective arguments relevant provisions of UGC [Institutions Deemed to be Universities] Regulation 2010 framed by notification dated 21.5.2010 is to regulate, in an orderly manner, the process of declaration of institutions as deemed to be universities; preventing institutions of dubious quality from being so declared; and, further to maintain quality of higher education imparted by institutions deemed to be universities consistent with the ideals of the concept of a university; the University Grants Commission in exercise of powers conferred under clauses (f) & (g) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956, has proceeded to make following regulations;

"1.0 Short Title, Application and Commencement:--

1.1 These Regulations may be called the UGC (Institutions Deemed to be Universities) Regulations, 2010.

1.2 These Regulations shall apply to every institution seeking declaration as an institution deemed to be university under the Act as also, albeit prospectively, to an institution which has been declared as an institution deemed to be university under Section 3 of the UGC Act, 1956.

1.3 They shall come into force with effect from the date of their notification in the Official Gazette.

"5.0 Governance System for an Institution to be Declared as an Institution Deemed to be University:

An institution to be declared as a deemed to be university shall adhere to the following criteria:

5.1 The proposed institution deemed to be university shall be registered either as a not-for profit Society under the Societies Registration Act, or as a not-for profit Trust under the Public Trust Act with the Society/Trust strictly in accordance with the following provisions.

5.2 Among the authorities of the deemed to be universities, there shall be a Chancellor who shall be appointed by the sponsoring society or the sponsoring Trust. He/she shall be an eminent educationist or a distinguished public figure other than the President of the sponsoring society or his/her close relatives.

5.3 There shall be no position of Pro-Chancellor(s).

5.4 The highest governing body of the deemed to be university shall be a Board of Management to be headed by the Vice Chancellor or a distinguished academic. This body shall consist of a minimum of ten and a maximum of twelve members.

5.5 The Board of Management of the institution shall be independent of the Trust (or) Society with full autonomy to perform its academic and administrative responsibilities. The number of representative(s)/nominee(s) of the trust (or) society on the Board of Management shall be limited to a maximum of two.

5.6 The Board of Management shall consist of eminent persons capable of contributing to and upholding university ideals and traditions.

5.7 There shall be a Board of Management consisting of the following: -

- i) Vice-Chancellor..... Chairperson
- ii) Pro Vice-Chancellor (wherever applicable)
- iii) Deans of Faculties not exceeding two (by rotation based on seniority)
- iv) Three eminent academics as nominated by the Chancellor
- v) One eminent academic to be nominated by the Central Government in consultation with UGC
- vi) Two teachers (from Professors, Associate Professors) by rotation based on seniority
- vii) One nominee of the sponsoring Society
- viii) The Registrar, who shall be the Secretary

The term of membership of the Board of Management and its powers are as shown in Annexure 1.

5.8 The Vice Chancellor shall be an eminent academic and shall be appointed by the Chancellor on the recommendation of a Search-cum-Selection Committee consisting of a nominee of the Government, who shall be nominated in consultation with UGC, a nominee of the Chancellor and that of Board of Management. The Committee shall be chaired by the nominee of the Board of Management.

5.9 All other statutory bodies of the deemed to be university shall be as described in Annexure 2"

27. Alongwith the said regulations in question Annexure-2 deals with the other authorities of the institution deemed to be university. Under the aforementioned annexure following has been declared to be other authorities of the institution deemed to be university; (i) Academic Council (ii) Planning and Monitoring Board (iii) Finance Committee (iv) Board of Studies & (v) such other authorities as may be declared by the Rules to be authorities of the institution deemed to be university. Paragraph 6.0 provides for Officers of the institution deemed to be university, which is as follows;

"6.0 Officers of the Institution Deemed to be University

The following shall be the officers of the Institution deemed to be university:

- a) Chancellor
- b) Vice-Chancellor
- c) Pro Vice-Chancellor
- d) Registrar
- e) Finance Officer
- f) Controller of Examinations
- g) Dean of Faculties
- h) Head of Department

I) Such other officers as may be prescribed in the Rules of the institution deemed to be university.

6.1 Chancellor

The Institution deemed to be university shall have a Chancellor who shall, when present, preside over the convocations of the Institution deemed to be university but shall not be the Chief Executive Officer. The Chancellor shall be appointed by the Sponsoring Society or Trust, shall hold office for a period of 5 years and shall be eligible for one more term. The Chancellor shall neither be a member of the Society or the Trust nor a close relative of the President of the Society or the Trust.

Where power is conferred upon the Chancellor to nominate persons to authorities, he/she shall, to the extent necessary, nominate persons to represent the various interests for the furtherance of the objectives of the Institutions deemed to be university.

6.2 Vice-Chancellor

(I) The Vice-Chancellor shall be a whole time salaried officer of the Institution deemed to be university and shall be appointed by the Chancellor from a panel of three names suggested by a Search-cum-Selection Committee.

The composition of the Search-cum-Selection Committee shall be:--

1. A nominee of the Chancellor
2. A nominee of Central Government; who shall be an eminent academic nominated by the Government in consultation with the UGC
3. A nominee of Board of Management

(ii) The Vice-Chancellor shall hold office for a term of 5 years. He shall be eligible for a second term, provided that in no case shall he hold office beyond the age of 70 years.

Provided that notwithstanding the expiry of the said period of 5 years, he/she may continue in office for not more than six months or till his/her successor is appointed and the latter assumes office, whichever, is earlier.

(iii) In case of the office of the Vice-Chancellor becoming vacant due to death, resignation or otherwise and in case of his/her absence due to illness or any other cause, the Pro Vice-Chancellor, and in his/her absence, the Senior most Dean or, if there is no Dean, the senior most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor is appointed, or the existing Vice-Chancellor resumes duties, as the case may be.

6.3 Powers of the Vice-Chancellor

i) The Vice-Chancellor shall be the Principal Executive Officer of the Institution deemed to be university and shall exercise general supervision and control over the affairs of the Institution deemed to be university and shall be mainly responsible for implementation of the decisions of all the authorities of the Institution Deemed to be University.

ii) The Vice-Chancellor shall be the Ex-officio Chairman of the Board of Management, the Academic Council, the Finance Committee, the Planning & Monitoring Board and Selection Committees.

iii) The Vice-Chancellor shall have the power to convene or cause to be convened meeting of the various authorities of the Institution deemed to be university.

iv) The Vice-Chancellor may, if he/she is of the opinion that immediate action is

called for on any matter, he/shall exercise any power conferred upon any authority of the Institution deemed to be university under its Regulations and Rules, and take such action or proceed to take such action and shall report to the authority concerned on the action taken by him/her on such matters.

Provided that if the authority concerned as mentioned in clause (ii) above is of the opinion that such action ought not to have been taken, it may refer the matter to the Chancellor whose decision thereon shall be final.

Provided further that if any person in the service of the Institution deemed to be university is aggrieved by the action taken by the Vice- Chancellor under the said clause, he/she shall have the right to appeal against such decision to the Board of Management within 30 days from the date on which such action is communicated to him/her and thereupon the Board of Management shall call the meeting in a subsequent meeting and may confirm, modify or reverse the action taken by the Vice-Chancellor.

v) It shall be the duty of the Vice-chancellor to ensure that, Regulations, and Rules of the Institution deemed to be university are duly observed and implemented and he/she shall have all the necessary powers in this regard.

vi) All powers relating to the proper maintenance and discipline of the Institution deemed to be university shall be vested in the Vice-Chancellor.

vii) The Vice-Chancellor shall have the power to re-delegate some of his powers to any of his/her subordinate officers with the concurrence and approval of the Board of Management.

viii) The Vice-Chancellor shall exercise all other powers as may be delegated to him/her by the Board of Management.

ix) The Vice-Chancellor shall exercise such other powers and perform such other functions as may be prescribed by the Regulations, Rules and Bye-Laws.

9.0 Dispute as to Membership: If any question arises, whether any person has been duly nominated or appointed, as or is entitled to be member of any authority or any committee of the institution deemed to be university, the matter shall be referred to the Chancellor, whose decision thereon shall be final and binding.

14. Disqualification

(a)....

(b) If any question arises as to whether a person is or has been subjected to any disqualification mentioned above, the question shall be referred for the decision to the Chancellor and his decision shall be final."

28. A bare perusal of the provisions quoted above would go to show that an institution deemed to be university shall have a Chancellor, who shall, when present, preside over the convocations of the Institution Deemed to be University

but shall not be the Chief Executive Officer. The Chancellor shall be appointed by the Sponsoring Society or Trust shall hold office for a period of 5 years and shall be eligible for one more term. The Chancellor shall neither be a member of the Society or the Trust nor a close relative of the President of the Society or the Trust, whereas power is conferred upon the Chancellor to nominate persons to authorities and to the extent necessary, nominate persons to represent the various interests for the furtherance of the objectives of the Institutions Deemed to be University.

29. Chancellor, apart from the same, has been conferred with the authority to decide the dispute if any question arises, whether any person has been duly nominated or appointed, as or is entitled to be a member of any authority or any committee of the institution deemed to be university, the matter shall be referred to the Chancellor, whose decision thereon shall be final and binding. Chancellor additionally has been conferred with the authority to decide the issue of disqualification.

30. The challenge that is being made to the appointment of Chancellor, in the present case, is based on the premises that the Chancellor has to be appointed by the Sponsoring Society/Trust and same has been hedged with the condition that Chancellor shall neither be a member of the Society or the Trust nor a close relative of the President of the Society or the Trust and here the Chancellor appointed suffers from such a disqualification, as such, intervention be made.

31. The stand that has been taken in the writ petition is being resisted on behalf of AAI by submitting that clause 5.02 of the Regulations framed by the UGC, which deals with the appointment of Chancellor of a Deemed University and came into force in July 2010, contravenes the right of Minority Educational Institutions as guaranteed by Article 30(1) of the Constitution of India in so far as right to administer is concerned, inasmuch as, the said clause prohibits the appointment of the President of the Sponsoring Society to be appointed as Chancellor of the Deemed University whereas the President of the Society is considered as a person who is well versed with the objects of the Society and can safeguard the minority rights and not only this same mandatorily imposes an outsider to interfere/intervene in the right to administer.

32. The issue, that has been raised in the present case, is as to whether such a provision has the effect of infringing Article 30(1) of the Constitution of India i.e. right to administer. In the present case what we find from the scheme of things provided for that as far as Chancellor is concerned, at the point of time, when he is present he would preside over the convocations of the Institution Deemed to be University but he is not at all the Chief Executive Officer and under the scheme of things provided for one of the essential function of the Chancellor is to nominate persons to authorities and resolve dispute as to whether any person has been duly nominated or appointed as or is entitled to be a member of any authority or any committee of the institution deemed to be university and on the matter being referred to the Chancellor his decision has to be accepted as final

and binding. Chancellor has been conferred with the authority to decide the issue of disqualification also. Once such is the authority of the Chancellor, in the present scheme of things and right to administer has been conferred upon the minorities, who have proceeded to establish the university concerned, does this provision, offends right to administer as guaranteed under Article 30(1) of the Constitution to the minorities. In order to answer such an issue, the judgment of Apex Court in the case of T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, , is being looked into that has been followed in the case of Sindhi Education Society and Another Vs. The Chief Secretary, Govt. of NCT of Delhi and Others, . Relevant paragraphs are extracted below;

"91. In T.M.A. Pai's case (supra) the right to establish an institution is provided. The Court held that the right to establish an institution is provided in Article 19(1) (g) of the Constitution. Such right, however, is subject to reasonable restriction, which may be brought about in terms of clause (6) thereof. Further, that minority, whether based on religion or language, however, has a fundamental right to establish and administer educational institution of its own choice under Article 30(1) .

92. The right under clause (1) of Article 30 is not absolute but subject to reasonable restrictions which, inter alia, may be framed having regard to the public interest and national interest of the country. Regulation can also be framed to prevent maladministration as well as for laying down standards of education, teaching, maintenance of discipline, public order, health, morality etc. It is also well settled that a minority institution does not cease to be so, the moment grant-in-aid is received by the institution. An aided minority education institution, therefore, would be entitled to have the right of admission of students belonging to the minority group and, at the same time, would be required to admit a reasonable extent of non-minority students, to the extent, that the right in Article 30(1) is not substantially impaired and further, the citizen's right under Article 29(2) is not infringed.

93. A minority institution may have its own procedure and method of admission as well as the selection of students but it has to be a fair and transparent method. The State has the power to frame regulations which are reasonable and do not impinge upon the basic character of the minority institutions. This Court, in some of the decisions, has taken the view that the width of the rights and limitations thereof of unaided institutions, whether run by a majority or by a minority, must conform to the maintenance of excellence and with a view to achieve the said goal indisputably, the regulations can be made by the State.

94. It is also equally true that the right to administer does not amount to the right to mal- administer and the right is not free from regulations. The regulatory measures are necessary for ensuring orderly, efficient and sound administration. The regulatory measures can be laid down by the State in the administration of minority institutions. The right of the State is to be exercised primarily to prevent mal- administration and such regulations are permissible regulations. These

regulations could relate to guidelines for the efficiency and excellence of educational standards, ensuring the security of the services of the teachers or other employees, framing rules and regulations governing the conditions of service of teachers and employees and their pay and allowances and prescribing course of study or syllabi of the nature of books etc. Some of the impermissible regulations are refusal to affiliation without sufficient reasons, such conditions as would completely destroy the autonomous status of the educational institution, by introduction of outside authority either directly or through its nominees in the Governing Body or the Managing Committee of minority institution to conduct its affairs etc. These have been illustrated by this Court in the Case of State of Kerala, etc. Vs. Very Rev. Mother Provincial, etc., , All Saints High School, Hyderabad and Others Vs. Government of Andhra Pradesh and Others, .

95. Even in the Kerala Education Bill, 1957 case (supra), referred for opinion by the President under Article 143(1) of the Constitution, this Court while answering question No. 2 emphasized upon the freedom and extent of protection available to the minority institutions. Referring to the fact that Articles 29 and 30 are set out in Part-III of the Constitution, which guarantees fundamental rights, the text and margin notes of both the Articles show that their purpose is to confer those fundamental rights on certain sections of community, which constitute minority communities. The Court held that Article 30(1) cannot be limited and should equally operate in favour of educational institution, whether established pre or post the commencement of the Constitution. The Bench repelled the contention that by admission of an outsider, the minority institution will lose its character as such, and held:

"22. ...To say that an institution which receives aid on account of its being a minority educational institution must not refuse to admit any member of any other community only on the grounds therein mentioned and then to say that as soon as such institution admits such an outsider it will cease to be a minority institution is tantamount to saying that minority institutions will not, as minority institutions, be entitled to any aid".

96. While admitting non-members, the institution does not shed its character or ceases to be a minority institution. The freedom of minority institutions was further explained by the Bench by saying that it is the choice of the minority institution, to establish such educational institutions as well serve both purposes that of conserving their religion, language or culture and also the purpose of giving a thorough good general education to their children. So, they could even impart education in their own language or in any other language, which choice essentially has to be left to the minority institution. The constitution itself uses the word "choice" in Article 30(1) , which indicates the extent of liberty and freedom, the framers of the Constitution intended to grant to the minority community. Thus, there arises no occasion for the Court to read restrictions into such freedom on the ground of policy. It may amount to intrusion into the very minority character and protection available to the community in law. The right to

frame regulations, therefore, is not itself an unregulated right. It has its own limitations and sphere within which such regulations would be framed and made operative.

97. It is not necessary for us to examine the extent of power to make regulations, which can be enforced against linguistic minority institutions, as we have already discussed the same in the earlier part of the judgment. No doubt, right conferred on minorities under Article 30 is only to ensure equality with the majority but, at the same time, what protection is available to them and what right is granted to them under Article 30 of the Constitution cannot be diluted or impaired on the pretext of framing of regulations in exercise of its statutory powers by the State. The permissible regulations, as afore-indicated, can always be framed and where there is a mal-administration or even where a minority linguistic or religious school is being run against the public or national interest, appropriate steps can be taken by the authorities including closure but in accordance with law. The minimum qualifications, experience, other criteria for making appointments etc are the matters which will fall squarely within the power of the State to frame regulations but power to veto or command that a particular person or class of persons ought to be appointed to the school failing which the grant-in-aid will be withdrawn, will apparently be a subject which would be arbitrary and unenforceable.

98. Even in T.M.A. Pai's case (supra), which view was reiterated by this Court in the case of Secy. Malankara Syrian Catholic College (supra), it was held that the conditions for proper utilization of the aid by the educational institution was a matter within the empowerment of the State to frame regulations but without abridging or diluting the right to establish and administer educational institutions. In that case, while dealing with the appointment of a person as Principal, the Court clearly stated the dictum that the freedom to choose the person to be appointed as Principal has always been recognized as a vital facet to right to administer the educational institution. It being an important part of the administration and even if the institution is aided, there can be no interference with the said right. The power to frame regulations and control the management is subject to another restriction which was reiterated by the Court in P.A. Inamdar's case (supra) stating that it is necessary that the objective of establishing the institution was not defeated.

99. At last, what is the purpose of granting protection or privilege to the minorities in terms of Article 29 , and at the same time, applying negative language in Article 30(2) in relation to State action for releasing grant-in-aid, as well as the provisions of DSE Act, 1973 and the rules framed thereunder? It is obvious that the constitutional intent is to bring the minorities at parity or equality with the majority as well as give them right to establish, administer and run minority educational institutions. With the primary object of Article 21A of the Constitution in mind, the State was expected to expand its policy as well as methodology for imparting education. DSE Act, as we have already noticed, was

enacted primarily for the purpose of better organization and development of school education in the Union Territory of Delhi and for matters connected therewith or incidental thereto. Thus, the very object and propose of this enactment was to improve the standard as well as management of school education. It will be too far fetched to read into this object that the law was intended to make inroads into character and privileges of the minority. Besides, in the given facts and circumstances of the case, the Court is also duty bound to advance the cause or the purpose for which the law is enacted. Different laws relating to these fields, thus, must be read harmoniously, construed purposively and implemented to further advancement of the objects, sought to be achieved by such collective implementation of law. While, you keep the rule of purposive interpretation in mind, you also further add such substantive or ancillary matters which would advance the purpose of the enactment still further. To sum up, we will term it as "doctrine of purposive advancement".

100. The power to regulate, undisputedly, is not unlimited. It has more restriction than freedom particularly, in relation to the management of linguistic minority institutions. The rules, which were expected to be framed in terms of Section 28 of the DSE Act, were for the purpose of carrying out the provisions of the Act. Even, otherwise, it is a settled principle of law that Rules must fall within the ambit and scope of the principal legislation. Section 21 is sufficiently indicative of the inbuilt restrictions that the framers of the law intended to impose upon the State while exercising its power in relation to a linguistic minority school.

101. To appoint a teacher is part of the regular administration and management of the School. Of course, what should be the qualification or eligibility criteria for a teacher to be appointed can be defined and, in fact, has been defined by the Government of N.C.T. of Delhi and within that specified parameters, the right of the linguistic minority institution to appoint a teacher cannot be interfered with. The paramount feature of the above laws was to bring efficiency and excellence in the field of school education and, therefore, it is expected of the minority institutions to select the best teacher to the faculty. To provide and enforce the any regulation, which will practically defeat this purpose would have to be avoided. A linguistic minority is entitled to conserve its language and culture by a constitutional mandate. Thus, it must select people who satisfy the prescribed criteria, qualification and eligibility and at the same time ensure better cultural and linguistic compatibility to the minority institution.

102. At this stage, at the cost of repetition, we may again refer to the judgment of this Court in T.M.A. Pai's case (supra), where in para 123, the Court specifically noticed that while it was permissible for the State and its educational authorities to prescribe qualifications of a teacher, once the teachers possessing the requisite qualifications were selected by the minorities for their educational institutions, the State would have no right to veto the selection of the teachers. Further, the Court specifically noticed the view recorded by Khanna, J. in

reference to Kerala Education Bill, 1957 case (supra), and to clauses 11 and 12 of the Bill in particular, where the learned Judge had declared that, it is the law declared by the Supreme Court in subsequently contested cases as opposed to the Presidential reference, which would have a binding effect and said:

"123.... 109.... The words "as at present advised" as well as the preceding sentence indicate the view expressed by this Court in relation to Kerala Education Bill, 1957, in this respect was hesitant and tentative and not a final view in the matter."

What the Court had expressed in para 123 above, appears to have found favour with the Bench dealing with the case of T.M.A. Pai (supra). In any case, nothing to the contrary was observed or held in the subsequent judgment by the larger Bench.

103. The concept of equality stated under Article 30(2) has to be read in conjunction with the protection under Article 29 and thus it must then be given effect to achieve excellence in the field of education. Providing of grant-in-aid, which travels from Article 30(2) to the provisions of the DSE Act and Chapter VI of the Rules framed thereunder, is again to be used for the same purpose, subject to regulations which themselves must fall within the permissible legislative competence. The purpose of grant-in-aid cannot be construed so as to destroy, impair or even dilute the very character of the linguistic minority institutions. All these powers must ultimately, stand in comity to the provisions of the Constitution, which is the paramount law. The Court will have to strike the balance between different facets relating to grant-in-aid, right to education being the fundamental right, protection available to religious or linguistic minorities under the Constitution and the primary object to improve and provide efficiency and excellence in school education.

104. In our considered view, it will not be permissible to infringe the constitutional protection in exercise of State policy or by a subordinate legislation to frame such rules which will impinge upon the character or in any way substantially dilute the right of the minority to administer and manage affairs of its school. Even though in the case of Mohinder Kaur (supra), the Bench of this Court held that upon restoration of the minority character of the institution, the provisions of the Act and the rules framed thereunder would cease to apply to a minority institution. We still would not go that far and would preferably follow the view expressed by larger Bench of this Court in T.M.A. Pai's case (supra) and even rely upon other subsequent judgments, which have taken the view that the State has the right to frame such regulations which will achieve the object of the Act. Even if it is assumed that there is no complete eclipse of the DSE Act in the Rules in the case of minority institutions, still Rule 64(1)(b), if enforced, would adversely effect and dilute the right and protection available to the minority school under the Constitution.

105.

111. A linguistic minority has constitution and character of its own. A provision of law or a Circular, which would be enforced against the general class, may not be enforceable with the same rigors against the minority institution, particularly where it relates to establishment and management of the school. It has been held that founders of the minority institution have faith and confidence in their own committee or body consisting of the persons selected by them. Thus, they could choose their managing committee as well as they have a right to choose its teachers. Minority institutions have some kind of autonomy in their administration. This would entail the right to administer effectively and to manage and conduct the affairs of the institution. There is a fine distinction between a restriction on the right of administration and a regulation prescribing the manner of administration. What should be prevented is the maladministration. Just as regulatory measures are necessary for maintaining the educational character and content of the minority institutions, similarly, regulatory measures are necessary for ensuring orderly, efficient and sound administration.

112. Every linguistic minority may have its own socio, economic and cultural limitations. It has a constitutional right to conserve such culture and language. Thus, it would have a right to choose teachers, who possess the eligibility and qualifications, as provided, without really being impressed by the fact of their religion and community. Its own limitations may not permit, for cultural, economic or other good reasons, to induct teachers from a particular class or community. The direction, as contemplated under Rule 64(1)(b), could be enforced against the general or majority category of the Government aided school but, it may not be appropriate to enforce such condition against linguistic minority schools. This may amount to interference with their right of choice and, at the same time, may dilute their character of linguistic minority. It would be impermissible in law to bring such actions under the cover of equality which in fact, would diminish the very essence of their character or status. Linguistic and cultural compatibility can be legitimately claimed as one of the desirable features of a linguistic minority in relation to selection of eligible and qualified teachers.

113. A linguistic minority institution is entitled to the protection and the right of equality enshrined in the provisions of the Constitution. The power is vested in the State to frame regulations, with an object to ensure better organization and development of school education and matters incidental thereto. Such power must operate within its limitation while ensuring that it does not, in any way, dilute or impairs the basic character of linguistic minority. Its right to establish and administer has to be construed liberally to bring it in alignment with the constitutional protections available to such communities. The minority society can hardly be compelled to perform acts or deeds which per se would tantamount to infringement of its right to manage and control. In fact, it would tantamount to imposing impermissible restriction. A school which has been established and granted status of a linguistic minority for years, it will not be proper to stop its grant-in-aid for the reason that it has failed to comply with a

condition or restriction which is impermissible in law, particularly, when the teacher appointed or proposed to be appointed by such institution satisfy the laid down criteria and/or eligibility conditions. The minority has an inbuilt right to appoint persons, which in its opinion are better culturally and linguistically compatible to the institution."

33. Regulations can be framed but in reference of minority institution, such regulations should not have the tenets of impinging on the character of institution or in any way substantially diluting the right of minority to administer and manage its affairs.

34. On the said parameters, from the perspective and point of view of minorities right to administer, we find, in the present case, that Chancellor necessarily will have to be an outsider, thus forcing the members of the minority community to have a Chancellor outside from their society or the trust, in our considered opinion, would certainly impinge upon the right to administer as the Chancellor, who would be an outsider, may be as per their choice, as per the provisions that have been so introduced, but even then he/she will have the authority to decide the dispute in reference of question whether any person has been duly nominated or appointed, as or is entitled to be a member of any authority or any committee of the institution deemed to be university, including the issue of disqualification. A forum has been provided to an outsider for deciding such a dispute certainly has the tenets of impinging Article 30(1) of the Constitution of India. There is fine distinction in between restriction on the right of administration and a regulation in the matter of administration. Present clause 5.02 in effect is not at all regulatory vis-?-vis minority institution rather it has the tenets of restricting to administer as per their own choice by thrusting an outsider with the right to intervene in certain contingencies. Said regulation clearly offends Article 30(1) of the Constitution and cannot be pressed qua minority institutions.

35. Once such is the factual situation that is so emerging that after UGC [Institutions Deemed to be Universities] Regulation 2010 has been enforced, accepted position is that till today the said provisions in question have not at all been incorporated rather after receiving the same a detailed reply has been submitted by AAI mentioning therein that there are various provisions that are infringing upon the minority rights and the most unfortunate part of the same is that UGC, in the present case, has been sitting tight over the matter and has been writing letters after letters without considering this aspect of the matter as to whether regulations in question, that have been sought to be enforced upon the university in any way impinges upon the minority rights. Once the minority institution is resisting the enforcement of UGC [Institutions Deemed to be Universities] Regulation 2010 on certain scores by clearly mentioning therein that such part of the regulations has the offending effect of Article 30(1) of the Constitution of India, then UGC was duty bound to take a call instead of proceeding to write letters after letters by mentioning that same is applicable on

all institutions whether minority or non-minority. The fact of the matter is that in reference of minority institution in case regulations sought to be introduced has the effect of impingement of right of administration, then UGC was duty bound to consider such matters.

36. Here UGC has not at all considered the UGC [Institutions Deemed to be Universities] Regulation 2010 from the perspective and point of view of minority rights, in view of this, to presume that UGC [Institutions Deemed to be Universities] Regulation 2010 can be ipso facto pressed as per Regulation 1.2 wherein it has been mentioned that these regulations shall apply to every institution seeking declaration as an institution deemed to be university as well as the institution who has already declared as an institution deemed to be university under Section 3 of the UGC Act, 1956 cannot be accepted and once an issue was being raised then such an issue certainly ought to have been addressed instead of sitting tight over the matter and insisting upon enforcement of the same.

37. Moreover, Apex Court in the case of Kalyani Mathivanan Vs. K.V. Jeyaraj and Others , in reference of UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations 2010, wherein also issue of appointment of Vice-Chancellor has been raised by praying for writ of quo-warranto for the removal of Vice-Chancellor, view has been taken that the UGC Regulations 2010 are mandatory to teachers and other academic staff in all the Central Universities and Colleges thereunder and the institutions deemed to be universities whose maintenance expenditure is met by UGC. Here accepted position is that no maintenance expenditure is met by the UGC in reference of AAI. Accordingly, to say that provisions of UGC (Institutions Deemed to be Universities) Regulation 2010 would ipso facto apply cannot be accepted vis-?-vis minority institutions. UGC will have to take final call once objections are raised and after final call is taken, then, thereafter, directives issued by the UGC if are not being complied with then UGC is free to take action in accordance with law i.e. under Section 14 of UGC Act, 1956 and institute is also free to assail the validity of action, so taken, in accordance with law, at appropriate forum.

38. In view of this as far as appointment of Chancellor is concerned, who holds Ph.D. Degree from East Georgia University USA, to say that he is continuing in public office contrary to UGC [Institutions Deemed to be Universities] Regulation 2010, cannot be accepted by us.

39. Now coming to the issue in reference of Vice-Chancellor of the university concerned. In order to appreciate this aspect of the matter, we would have to examine the Model Constitution (Memorandum of Association & Rules) that has been approved by the UGC while recommending for declaration of AAI as deemed university, at the point of time when AAI was declared to be deemed university it was specifically provided that the present Principal/Director of the

Institute shall be the first Vice Chancellor of the University, who shall continue on the post till the age of 65 years. Article XV (A) of the Memorandum of Association and Rules of Allahabad Agricultural Institute which deals with the selection procedure and Article XVIII (C) which deals with the tenure of the Vice-Chancellor are reproduced hereunder for convenient perusal of the Hon"ble Court:--

"Article XV (A)(i) Selection Committee for appointing Vice Chancellor of the Institute/Deemed University

(ii) The Committee shall submit its recommendation to the Board of Directors for appointment. The Board of Directors may also consider for appointment as Vice Chancellor, any of the Directors/Registrar (if they fulfill qualifications) directly. The Board of Directors may also invite Eminent Christian Scholars/Scientists/Administrator (if he/she fulfills qualifications) from within India or outside and offer him/her an appointment directly. For appointing Vice-Chancellor, Directors, Registrar and Finance Comptroller or any other Executive Officer it shall be absolute power of the Board of Directors of Allahabad Agricultural Institute. As far as the first Vice Chancellor is concerned, the existing Director/Principal of the Institute shall be the Vice Chancellor of the Deemed University till retirement as stipulated in the Article XVIII (C)."

"Article XVIII (C) - Powers and Duties of Vice-Chancellor-

The Vice Chancellor shall be a whole time salaried officer of the Institute/Deemed University and shall be appointed by the Board of Directors. In the absence of Vice Chancellor due to retirement/resignation/illness/leave or any other reason, the Registrar/or Director authorized by the Board shall officiate in his place. However, under normal circumstances, the Vice Chancellor may authorize Registrar or any one of the Directors to officiate in his place during his absence from Allahabad. Ordinarily the Vice Chancellor shall superannuate at the age of prescribed for teaching staff from time to time, but the Board of Directors may extend his appointment for a maximum period of five years more years or upto 65 years of age whichever is higher."

40. The present Vice-Chancellor came to be appointed in the institution as Principal of the AAI, an associate college of the University of Allahabad, under Statute 11.13-A of the First Statutes of the University of Allahabad, 1976, with effect from 04.10.1997 after selection for the post of Principal, Allahabad Agricultural Institute was done in accordance with the provisions of Uttar Pradesh State Universities Act, 1973 and the Statute 13.13-A of the First Statutes of the University of Allahabad, 1976. Application for the post of Principal, Allahabad Agricultural Institute was invited through advertisement published in the Newspapers "The Pioneer", "The Northern India Patrika" and "Aaj" published from Allahabad on 6/7/8.8.1997. Since Dr. Rajendra Bihari Lal fulfilled the eligibility criteria for the appointment of Principal of a Post-graduate Associate College of the University of Allahabad, he applied for the post of Principal, AAI

and interview for the post of Principal, AAI was held on 04.10.1997, wherein recommendation made by Selection Committee has been as follows:--

"Recommendation of the Selection Committee:

Considering the provisions of Allahabad University Statute 1976, 11.13 A [2] (a) and (b): other necessary qualifications and specialized experience in the field of Agricultural Science and Technology and on the basis of performance in the interview, the Selection Committee unanimously recommends appointment of Dr. Rajendra B. Lal to the post of Principal of the Institute."

41. Thereafter, by letter No. C-1825/VC-97, dated 4.10.1997, the Vice Chancellor, University of Allahabad, was pleased to approve the recommendation of the Selection Committee, appointing Dr. Rajendra Bihari Lal as Principal of the Institute. Letter No. C-1825/VC-97, dated 4.10.1997, written by the Vice Chancellor, University of Allahabad, is reproduced hereunder:--

"With reference to your letter dated 4th October, 1997, I am desired to inform you that the Vice Chancellor has been pleased to approve the recommendation of the Selection Committee in appointing Dr. Rajendra B. Lal as the Principal of the Institute. You may please issue an appointment letter in favour of Dr. R.B. Lal and send a copy of the same for our record."

42. On receipt of approval from the University of Allahabad, the Chairman, Board of Directors, AAI by his letter dated 04.10.1997 appointed the Dr. Rajendra Bihari Lal as Principal, AAI. Relevant extract of letter dated 4.10.1997 written by the Chairman, Board of Directors, AAI to Dr. Rajendra Bihari Lal is reproduced hereunder:--"With the approval of Selection Committee recommendations by the Executive Committee of the Board of Directors, AAI, vide Resolution No. 97-47, and the approval of the Vice-Chancellor vide his letter No. C-1824/VC/97 and No. C-1825/VC/97, dt. 04/10/1997, I am happy to appoint you as Principal of Allahabad Agricultural Institute with effect from the date you join on this post. I am confident that you will perform your duties diligently and efficiently in order to uphold and carry on the vision of this Christian Minority Institution. Further, vide Resolution No. 97-48 of the Executive Committee of the Board of Directors, AAI, you shall also continue to function as Director & Executive Secretary of AAI."

43. On being declared a Deemed to be University the State Government by G.O. No. 1100/12-8-2001-900(3)/97, dated 13.11.2001, upgraded the post of the Principal, AAI to the post of Vice-Chancellor, AAI (Deemed-to-be-University). Since Dr. Rajendra Bihari Lal was appointed as Principal, AAI, he was appointed the first Vice-Chancellor of the Deemed University, in concurrence of the University Grants Commission and the Ministry of Human Resource Development, Government of India. Accordingly, the post of Principal was upgraded by the State Government. Thereafter, by letter dated 24.3.2000 issued by the Chairman, Board of Directors and President, AAI-Deemed University, the post of Director was redesignated as Vice Chancellor. Relevant extract of letter dated 24.3.2000 issued by the Chairman, Board of Directors and President, AAI-

Deemed University is reproduced hereunder:--

"In accordance with the Board Action BD 99-18 dated 29.1.1999, the new amended Constitution for Deemed University comes into effect from the date the Central Government declared Allahabad Agricultural Institute as Deemed University. Thus the new Constitution has come into effect from 15th March, 2000. The Board of Directors in its meeting held on 29.01.1999 took the following decision:

"(c) Consequent to the declaration of Deemed University status to Allahabad Agricultural Institute with effect from the date of Notification, the Article XV (ii) of the amended Constitution shall become operative, and the existing Director/Principal of the Institute shall become the Vice Chancellor of the Deemed University. It is further resolved that the post of Director/Principal be redesignated as Vice Chancellor and the present incumbent Professor (Dr.) Rajendra B. Lal who was earlier appointed as Director of the Institute is redesignated as Vice-Chancellor with effect from the date of notification."

The current academic status of Vice-Chancellor is as follows;

1. B. Sc. (Ag.) - First Class, University of Allahabad in 1976
2. M. Sc. Agronomy - First Class, University of Allahabad in 1978
3. Ph.D. Agricultural Botany - Kanpur in 1983
4. Ph.D. Soil Science - Kansas State University, U.S.A. in 1990
5. P.D.F. - Kansas State University, U.S.A. in 1991 Further, the respondent has been honoured as under:--
 - i) Fellow - Bioved Research Society in 1995.
 - ii) Member of Gamma Sigma Delta, A Honour Society of Agriculture, U.S.A. in 1988
 - iii) S.T.E.P. Award winner, Soil Science Society of America in 1989
 - iv) Olson's Award from Kansas State University, U.S.A. in 1989
 - v) Fellow Award, Indian Society of Agricultural Chemists.
 - vi) Educational Pioneer Award, A.I.A.C.H.E. in 2000
 - viii) Jai Jawan Jai Kisan, S.U.C.O. in 2001
 - viii) Vidya Bhushan Award, INDIAN PRESS COUNCIL, Andhra Pradesh Chapter, Hyderabad in 2004
 - ix) Most Prestigious Fellow Award, 4th National Extension Education Congress in 2007.
 - ix) Fellow, Indian Chemical Society in 2013

x) President, Indian Agricultural Universities Association.

xii) President, Indian Universities Association

xiii) President, All India Association for Christian Higher Education"

44. Once such is the factual situation that by virtue of being the Principal of the institution concerned Dr. Rajendra Bihari Lal is holding the post of Vice-Chancellor of the university in question and till date he has not at all attained the age of 65 years, then to say that the said incumbent is holding the post without any authority of law, cannot be subscribed in the facts of the case, in view of this, the challenge that is being made on both the scores i.e. in reference of appointment of Chancellor and Vice-Chancellor, both have no merit and bound to fail as writ of quo-warranto can be issued, as per the judgment of Apex Court in the case of B. Srinivas Reddy v. Karnataka Urban Water Supply & Drainage Board 2006 (11) SCC 711, only when there is clear violation of law. Here there is none.

45. Consequently, writ petition is dismissed.