

(1982) 10 KL CK 0001
In the High Court Of Kerala
Case No : O.P. No. 1818/82-F

Vincent Panikulangara

APPELLANT

Vs

The University of Kerala and Another

RESPONDENT

Date of Decision : 25-10-1982

Acts Referred:

Kerala University (Amendment) Act, 1971 — Section 53
Kerala University Act, 1969 — Section 2(12), 2(17), 2(24)
Kerala University Act, 1974 — Section 17, 2, 21, 57, 57(8)
Kerala University Regulations, 1972 — Regulation 1, 2

Citation : (1982) 10 KL CK 0001

Hon'ble Judges : V. Khalid, J;G. Balagangadharan Nair, J

Bench : Division Bench

Advocate : V. Bhaskaran Nambiar, C.R. Natarajan and M.K. Ananthakrishnan for Respondent No. 1 and M.N. Sukumaran Nair and B. Raman Pillai, for the Respondent

Final Decision : Dismissed

Judgement

V. Khalid, J.—The Petitioner describes himself as the Secretary, The Public Interest Law Service Society, Emakulam. He has filed this Original Petition in such capacity. The 1st Respondent is the University of Kerala represented by its Registrar, the 2nd Respondent is shown as Shri. N. Narayanan Nair, Kerala Law Academy Law College, Trivandrum. (He is at present the Principal of the College. The Petitioner seems to have deliberately retrained from describing him as such since his case in this Original Petition is that he is not a properly appointed Principal). The prayers in the petition are to issue a writ of quo warranto or Other appropriate writ, direction or order calling upon the 2nd Respondent to show the authority under which he holds office as member of the Syndicate of the 1st Respondent, and declare that the 2nd Respondent is an usurper to that office and for other consequential reliefs.

2. The Petitioner's case is (1) that the Kerala Law Academy Law College is not a College affiliated to the Kerala University (2) that the appointment of the 2nd

Respondent is not approved (3) that he is not the Principal of a I Grade College and (4) that he is not validly elected to the Syndicate.

3. The bare facts disclosed in the petition are as follows:

The Kerala Law Academy Law College has not been given permanent affiliation. It is a Professional College falling within Rule 2 (j) of the First Statutes of 1977. It is not a First Grade College. A Principal of a Professional College is not given a representation by election to the Syndicate u/s 21 of Act 17 of 1974. By virtue of his election to the Syndicate the 2nd Respondent is functioning as a member of the Academic Council and other bodies of the 1st Respondent. The Petitioner discovered the fact that the 2nd Respondent was not qualified to be a member of the Syndicate when he probed into the malpractices in the functioning of the 1st Respondent. The Petitioner also states that the 2nd Respondent is not qualified to be the Principal of a Private College. His appointment as Principal of Kerala Law Academy Law College, Trivandrum, has not yet been approved by the 1st Respondent. He does not possess the statutory minimum qualifications by way of teaching experience for appointment as the Principal. His appointment by direct recruitment was not after due advertisement as required by the relevant provisions of the Act.

4. Teachers in Law Colleges must not only possess a degree of Master of Laws but must possess 10 years teaching experience in law in a Law College. The 2nd Respondent did not possess this experience and had not obtained exemption from the Syndicate on the recommendations of the Academic Council. Consequently, the appointment of the 2nd Respondent has not yet been approved by the 1st Respondent.

5. The 1st Respondent has filed two counter-affidavits and has produced some documents. The 2nd Respondent has also filed two counter-affidavits traversing the grounds urged by the Petitioner in the Original Petition. The Assistant Registrar of the University has sworn to the affidavit on behalf of the 1st Respondent. The Petitioner's locus standi to sustain the petition is disputed. It is further stated that even if he has any, he cannot raise stale questions which are not of immediate importance and seek the assistance of this Court for the issuance of a high prerogative writ.

6. The Kerala Law Academy is a Society registered under the Societies Registration Act in 1966. It runs a Law College which is affiliated to the Kerala University. The 2nd Respondent was appointed Principal of the College in 1968. He gave up that office in favour of a retired Judge of this Court. In 1970 he was again appointed Principal and has been continuing in that post since then. Thus no interest of the public is served by digging up a matter which had been in existence since 1968.

7. The Petitioner has an effective remedy under Sections 77 of the Act to challenge the appointment of the 2nd Respondent as Principal. The 2nd Respondent was elected to the Senate first in 1975 and then in 1979. He was

elected to the Syndicate in 1976 and 1980. The Law College is a First Grade College, for, the College imparts instruction to students for examinations for degree qualification. A Professional College can be a First Grade College also. The 2nd Respondent had the requisite qualifications prescribed by law for holding the post of a Principal. He holds a degree of Master of Laws of the Kerala University. He had about 14 years experience at the Bar. He had more than two years teaching experience in Law in a Law College. The appointment of Principal of the College can be made not only by direct recruitment but even otherwise. This contention raised in the petition is relying upon the provisions of Act 17 of 1974 which came into force only on 19th August 1974. Under the 1969 Act which applied to the 2nd Respondent, the appointment of the Principal had to be made from among teachers of the College by the governing body having regard to the seniority and merit. The case of the Petitioner that the appointment of the 2nd Respondent was not approved by the University is denied. The University has recognised him as Principal and had assigned him other works in that capacity in recognition of his status as Principal. Several Commissions were appointed by the University consisting of eminent academicians from time to time to look into the affairs of the college. The 2nd Respondent has been validly elected to the Senate and the Syndicate.

8. In the additional counter filed on 6th September 1982, the grounds raised by the Petitioner in the additional affidavit are controverted. One of the grounds raised was that the Kerala Law Academy Law College had not been affiliated to the Kerala University at all. The Government as per G. O. (Rt.) No. 59/68/Agriculture, dated 8th January 1968 accorded sanction to lease 11 acres and 49 cents to the Kerala Law Academy. This property was handed over to the Academy. The Senate at its meeting held on 24th February 1968 decided to appoint a Commission which submitted its report on 4th May 1968 recommending inter alia the starting of a Law College in the site shown. A Commission was again appointed. The second commission submitted its report on 3rd July 1968 recommending the affiliation on the fulfilment of certain conditions. The Commission again inspected on 22nd July 1968 and made a second report stating that the conditions stipulated in the first report had been satisfied substantially. Recognition of the affiliation sought was recommended. The Syndicate thereafter resolved to grant provisional affiliation. This was placed before the Senate also. In 1969, the Vice Chancellor appointed a single member Commission to inspect the Law Academy to report on the fulfilment of the conditions laid down by the first inspection commission. Dr. A.T. Markose who constituted the commission submitted his Report recommending affiliation. The Syndicate at its meeting held on 27th July 1968 accorded sanction for the affiliation of the second year L.L.B. course. In 1971, the University appointed a single member Commission consisting of a Retired Judge of the High Court, Trivandrum, to report as to whether the Academy had fulfilled the conditions laid down in the previous inspection commission reports. He submitted a report stating that the Law Academy had promptly carried out all the directions given

by the previous Commission in all respects. In 1975, there was another Inspection Commission for the purpose of starting I. LL.M. course followed by another Inspection Commission in 1976 for the purpose of starting II LL.M. course.

9. In his first counter-affidavit the 2nd Respondent has restated what is contained in the counter-affidavit filed by the University. Reference is made to the various Commissions appointed and it is stated that the College was affiliated to the University from the date of its establishment.

10. When the College was started in the year 1968, only evening classes were conducted for LL.B. course. The Management proposed to commence day classes also. Accordingly, an application was made to the University for granting sanction for commencing day classes. Commission was appointed which recommended to accord sanction for conducting full time degree courses also. This report was accepted by the University and full time degree courses were started. From the academic year 1970-71, the College commenced full time day classes. The College is a First Grade College. The 2nd Respondent has a Doctorate in Law from the Kerala University in the year 1972, and he possesses the necessary qualifications to be appointed as a Principal. By the time Act 17 of 1974 came into being, he had completed 4 years of continuous service as Principal of the Law College. His appointment as Principal was reported to the University in time and had been approved. His election to the Syndicate was proper. The 2nd Respondent was nominated to the Board of Studies of Law (Postgraduate) in his capacity as the Principal of the College and of other Boards of Studies under the University. It is also stated that there were, other proceedings and notifications issued by the University from 1968 onwards recognising and approving his employment as Principal of the Kerala Law Academy Law College.

11. We thought it necessary to refer to the facts as disclosed in the petition and the counter-affidavits in some detail to test whether the Petitioner had made out a case for the issuance of the writ of quo warranto that he prays for. The Petitioner at the outset made a feeble attempt to contend that once notice was issued in an Original Petition praying for a writ of quo warranto, the onus immediately shifted to the officer against whom the petition was filed to satisfy the court his credentials and entitlement to the office that he held. This submission of his remained a mere submission without any supporting authority. The Petitioner could not pursue this contention further and rest contended himself by merely making this submission. We do not feel persuaded to agree with the submission. If the mere issuance of notice by a court will cast an obligation on an officer against whom a writ of quo warranto is filed to satisfy it of his authority that would render high offices vulnerable and nonviable and place those who hold such offices at the mercy of litigants without scruples. Law does not cast such an obligation in a writ of quo warranto. The accusing Plaintiff has to place before Court sufficient materials to induce it to call upon the officer to show cause.

12. The 1st Respondent's counsel challenged the locus standi of the Petitioner in filing this petition, and making a prayer for the writ in question. His case is that the Petitioner is not in any manner aggrieved by the election of the 2nd Respondent to the Syndicate; public interest will not be advanced by an adjudication whether, the College in question is a First Grade College or a Professional College. It was also submitted that a public interest litigant has the same limitations as any other suitor before court, and a person like the Petitioner should not enjoy greater freedom in approaching court than others. This submission is based on the plea that the question at issue is a stale one since the 2nd Respondent had continued as a Principal for a fairly long time. According to the 1st Respondent, the 2nd Respondent had been functioning as the Principal of the College for more than a decade. He had been on the Syndicate by election twice. It is not as though interest of the public has all on a sudden been threatened by the office that the 2nd Respondent holds. An ordinary aggrieved party seeking relief under Article 226 would be told by this Court if he had slept over his rights that the jurisdiction will not be exercised in his favour. The same yardstick should apply to a public interest litigant also. The Petitioner met this argument saying that what he now seeks is not to resuscitate what had already happened but to see that a person without authority is not allowed to continue to be on the Syndicate a high Academic autonomous body and to influence its decision in future, so that the interests of the students and the University could at least in future be safeguarded. He further submits that his locus standi had been recognised by this Court in various other petitions where he ventilated the grievances of the general public before this Court.

13. We agree with the 1st Respondent's counsel that a public interest litigant does not enjoy greater freedom than an ordinary suitor in seeking the extraordinary jurisdiction of this Court. Courts will use the same yardstick towards an ordinary aggrieved party and a public interest litigant, except where the Court feels satisfied that interests of the public are in great peril, if the litigant before it who espouses the public cause is not granted the reliefs that he prays for. We do not propose to reject the Petitioner's prayer on the ground that he is seeking adjudication of a stale claim since the 2nd Respondent had been functioning as a Principal and a member of the Syndicate for a long time. We would go into the merits of the contentions since what the Petitioner wants is the discontinuance of the 2nd Respondent on the Syndicate hereafter; nor are we inclined to reject the petition on the ground of locus standi, since we are aware that the Petitioner had figured as a litigant before this Court in other matters projecting the cause of the public and also for the reason that the locus jurisdiction has in the recent past assumed very wide proportions.

14. We may at the outset outline our approach to the questions involved. The University and its various constituent bodies occupy a pride of place in the scheme of our things. Courts will not normally interfere with the activities of a University and the various bodies attached to it, nor look without suspicion the case that the "University puts forward unless compelling materials are placed

before the courts to do so. If the court is satisfied with the materials placed before it of the correctness and propriety of the action taken by the University, a further probe into such action will not normally be made by the courts, unless again the materials placed/before it are so compelling as to shock the conscience of the court. This is the line of approach that we propose to adopt while considering the facts and evidence in the case. We thought it necessary to outline this approach of ours even at the outset because the Petitioner's attempt was to create doubts and suspicion about the various proceedings of the 1st Respondent. His attempt was to get various documents produced by the university for the purpose of establishing his case. Submissions made on suspicion alone will not be sufficient in such cases. Persons like the Petitioner should be able to make out an acceptable case to persuade this Court for a probe into the allegations. It would not be sufficient to make out a prima facie case built on suspicion and on vague allegations.

15. The first question that falls to be decided is whether the college in question is an affiliated college. The Petitioner's case is that the College was given only temporary affiliation and that the conditions stipulated for permanent affiliation had not been fulfilled by the 2nd Respondent. If conditions are not fulfilled, temporary recognition ceases automatically. He also stated that the counter-affidavit filed did not contain any averment that permanent affiliation was even given. It is true that neither the 1st Respondent nor the 2nd Respondent has made available before us any material from which it can be conclusively held that permanent affiliation was ever given to the college. However, for this reason, it would not be permissible to hold that there was no affiliation at all. The Kerala University appointed a high level commission headed by late Dr. A.T. Markose, the then Dean of Faculty of Law, Kerala University, to submit a report after inspecting the Law College and ascertaining whether all conditions required for the affiliation of the College had been satisfied by the management. This Commission after inspection recommended that, the affiliation sought for could be granted. The above report was considered by the Syndicate of the Kerala University on 27th December 1968 and it was approved. Consequently, the College got affiliated to the University from the date of its establishment. This is the case both the 1st Respondent and the 2nd Respondent together put forward before us.

16. The counter-affidavits filed by the 1st and 2nd Respondents contain various details regarding the constitution of different Commissions from time to time to inspect the College in question when requests were made for starting new courses. The Commissions submitted reports each time in favour of the requests made by the College. Ext. A-1 produced along with the counter-affidavit filed by the 2nd Respondent dated 6th September 1982 is an extract from the Minutes of the meeting of the Senate on 2nd and 3rd December 1968 which evidence the acceptance by the Senate of the recommendation of the Inspection Commission and granting permission to start a Law College for part-time LL.B. course during 1968-69. Ext. A-2, dated 24th August 1970 is an order by the Controller of

Examinations-in-charge evidencing provisional sanction accorded to the Secretary, Kerala Law Academy to start full-time batch of 50 students for the I LL.B. course in the Law Academy Law College during the year 1970-71. Ext. A-3 is the decision of the Syndicate at its meeting held on 26th/27th May 1971 granting sanction for the continuance of the I year LL.B. Class and for starting the II year LL.B. Class. Ext; A-4 is the extract from the preliminary minutes of the 17th meeting of the Syndicate held on 4th October 1975 recording acceptance of the recommendation of the Inspection Commission and granting sanction for starting the LL.M. course in the College in question. The 2nd Respondent has filed C.M.P. No. 17129 of 1982 seeking permission to receive two documents in evidence. We allow that application. Ext. X-1 is the report submitted by the Inspection Committee appointed by the University of Kerala to inspect the Law Academy Law College for granting affiliation to start the LL.M. course. It is a detailed report considering the various aspects of the application and the other requirements to be satisfied by the College. The Committee recommended provisional affiliation to start I LL.M. course in the year 1975-76. Ext. X-2 is the extract from the preliminary minutes of the 17th meeting of the Syndicate held on 4th October 1975 at which meeting the Syndicate considered the recommendation of the Inspection Commission and resolved to accept the said recommendation and to issue sanction for starting LL.M. course in the College. The counsel for the 1st Respondent has produced six documents pursuant to the direction of this Court in C.M.P. No. 11825 of 1982. The 1st document is the true copy of the Minutes of the Syndicate for the months July, August, September, 1968. At page 25, the resolution of the Syndicate regarding the starting of the I LL.B. course part time is seen as SI. No. 84. The second document is the report of the Commission appointed by the Syndicate to inspect the site and facilities for a private Law College proposed to be started by the Kerala Law Academy at Trivandrum. The other documents are not relevant for consideration of this aspect of the case.

17. In the additional counter-affidavit filed by the 1st Respondent on 6th September 1982 reference is made to the decisions taken by the University regarding affiliation of the College in question. In paragraph 6 after referring to the Commission originally constituted and of the resolution of the Syndicate, It is stated "Accordingly provisional sanction subject to the above conditions is given to the Kerala Law Academy for starting a Private Law College...." In paragraph 8, it is stated that "Provisional sanction is therefore accorded to the Secretary, Kerala Law Academy to start in full-time batch of 50 students for the I LL.B. course in the Law College under them during the year 1970-71 subject to the conditions laid down by the Syndicate referred to above". In paragraph 10 it is stated that accordingly provisional sanction is given to the Kerala Law Academy Law College, Trivandrum, for the continuance of the I year LL.B. class during 1971-72 and that the College will have to fulfil the minimum conditions with regard to the staff, premises etc., and in paragraph 11 it is stated that provisional sanction is accorded by the Vice-Chancellor to the Kerala Law

Academy Law College, Trivandrum, for starting of the III year LL.B. class, and in paragraph 12, that provisional sanction has therefore been accorded to start I LL.M. Course. It is from these materials that the 1st Respondent contends that the case of the Petitioner that there was no affiliation to the College is based. It is further stated that the affiliation to the Kerala Law Academy Law College has not been withdrawn. The affidavit contains the following sentence also:

As far as I am aware, the University has not granted any permanent affiliation to any college.

18. The Petitioner's contention mainly is that though these documents evidence decisions of the Syndicate from time to time according provisional affiliation subject to fulfilment of certain conditions; the Respondents have not produced any document to satisfy the court either that the conditions stipulated had been fulfilled or that permanent affiliation had been given. In the absence of such evidence, it has to be held that the college remains unaffiliated. We find difficulty in accepting this contention. From the discussion made above, with reference to the pleadings and exhibits, it will be seen that the University had appointed successive commissions whenever the College requested for starting new courses. On each occasion the reports of the Commissions were in favour of the College and on each such occasion sanction were accorded to start new courses. It would be difficult to hold under these, circumstances that a responsible autonomous body like the University would have accorded sanction for a college to start new course in a college without affiliation as known to law. We do not feel that we would be justified in ignoring the various documents produced on the side of the Respondents and in accepting the Petitioner's case that in the absence of a document evidencing permanent affiliation that the college had not been affiliated to the University. We hold that the Petitioner has not succeeded in making out a case of a total absence of affiliation of the college to the University.

19. The next question to be considered is whether the appointment of the 2nd Respondent as the Principal was approved or not. The 2nd Respondent was originally appointed in 1968. He stepped down from the office since the Management decided to appoint a retired Judge of this Court (Justice P. Govinda Menon) as its Principal, during which period he continued as a Lecturer. After the Academic year 1969-70, Justice P. Govinda Menon was appointed by the Management as Director of Legal Studies, Kerala Law Academy, whereupon the 2nd Respondent was again appointed by the Management as the Principal of the Law College and in that position he continues even now. Thus, the 2nd Respondent has been functioning as Principal for nearly 12 years. The Commission appointed by the University from time to time had gone into the question of the qualification of the Principal and the teachers in the College. The reports of the Commission and the consequent resolutions by the Syndicate show that the College is manned by qualified Principal and qualified teachers. We have not been shown any document which would, even remotely, justify the Petitioner's contention that the 2nd Respondent had no qualification to be

appointed as Principal. He could only say that there was no formal resolution granting approval of the 2nd Respondent's appointment as Principal. From the various documents produced by the 1st and 2nd Respondents, we see that the 2nd Respondent had been functioning as the Principal of the College for more than a decade, and it would be presumptuous on our part to hold that the 2nd Respondent was so functioning without proper approval. The Petitioner states that a formal approval is necessary as required under Chapter XV (2) and (3) of the Kerala University First Ordinances, 1964, Regulations, 1 and 2 of the Kerala University Regulations, 1972 and Sections 57(8) and (9) of the Kerala University Act, 1974. This case of the Petitioner was met by the 2nd Respondent by production of Exts. A-1 to A-4 about which advertence had already been made by us. We have already said these documents show that the College had been affiliated to the University. It is contended by the 2nd Respondent's counsel that the University would never allow a Principal whose appointment had not been approved to function for more a decade in the College. In the counter-affidavit filed on 6th September 1982, the 2nd Respondent states that "no formal order of approval or recognition of appointment of Principals of Government Colleges affiliated to the University is being issued by the University. Similarly no such formal orders of approval or recognition of the appointments of the Principals of private Colleges affiliated to the University and which do not come under the direct payment scheme are being issued by the University. But appointment of such Principals are approved and recognised by the University by issuing various notifications giving representation to such Principals in various academic bodies and faculties and also by including their names in the electoral roll prepared and published for election to the Senate, the Syndicate and other University bodies". The 2nd Respondent has further stated that his appointment as Principal and the qualification possessed by him to hold the post of Principal had been specifically noted in the various reports submitted by the Inspection Commissions appointed by the University. The reports were accepted by the Syndicate. By proceedings dated 20th July 1978, the University constituted the College Development Council as proposed by the University Grants Commission with the Vice-Chancellor of the University as its Chairman. He was nominated by the University as a member of the College Development Council in his capacity as the Principal. He was elected as Vice Chairman subsequently. By notification No. Acad. A-7/402/75 the Kerala University reconstituted the various Boards of Studies as per the relevant provisions of the University Act and First Statutes and by the said notification, he was selected as a member of the Board of Studies of Law (Postgraduate) in his capacity as Principal of the College. By the notification dated 18th February 1976, various faculties were constituted and he was elected as a member of the Faculty of Law (Postgraduate) for a period of 3 years. These details supplied by the 2nd Respondent in his additional counter-affidavit clearly show that the University had recognised him as the Principal of the College. It is the absence of a formal order of approval that is the basis of the Petitioner's contention that his appointment has not been approved by the University.

20. The 2nd Respondent's case is that his appointment as Principal was approved and recognised by the University as evidenced by the consistent conduct of the University ever since that appointment. In 1970-71 when he was appointed Principal, he had a Postgraduate degree in law, and more than 4 years teaching experience in law. At that time he was the senior most member of the teaching staff of the College. The relevant section that governed the appointment at that time was not Sections 57 of Act 17 of 1974 but Sections 53 as amended by Act 13 of 1971. At the time he was appointed he was the senior most teacher in the College. Sections 58(2) of Act 17 of 1974 provides, according to the 2nd Respondent, the complete answer to the contention raised by the Petitioner regarding the validity of his appointment as Principal of the College. Viewed in the light of these materials, we will not be justified in saying that the 2nd Respondent had been functioning as an unapproved Principal. For the limited purpose of this petition, we hold that no relief can be granted to the Petitioner on his contention that there is no formal order of approval of the 2nd Respondent's appointment as Principal.

21. The Petitioner's case is that the 2nd Respondent is not a recognised teacher. For this, he says that the College is not affiliated. In the absence of affiliation, the 2nd Respondent cannot in law be recognised as the Principal, for his entitlement to various rights flowing out of that status. He took us through the definition of the word "Principal" in Section 2(12), recognised teacher in Section 2(17) and teacher in Section 2(24) of the Kerala University Act, 1969. A recognised teacher u/s 2(17) is a person employed as a teacher in an affiliated institution and whose appointment has been approved by the University. u/s 2(24) a teacher means a Principal also. According to the Petitioner, neither of the two conditions, namely, affiliation of approval, is satisfied by the 2nd Respondent. He then took us to Sections 66 of the Act which refers to the register of recognised teachers. Sections 66(1) " says that the Syndicate shall maintain a register of recognised teachers of the University in such form as may be prescribed by the statutes. It was forcefully contended that mere production by the University of this register would have dispelled all doubts against the status of the 2nd Respondent and the non-production, according to the Petitioner, was sufficient to cast a doubt about his recognition by the Syndicate. He also took us through the various documents produced by the University and found fault with them to contend that they were not free from doubt. We have already held that approval of the 2nd Respondent's appointment has to be assumed.

22. This takes us to the question whether the election of the 2nd Respondent to the Syndicate is proper or not. For this, the question whether the Law College is a First Grade College has to be considered. The Petitioner's case is that the 2nd Respondent is not a Principal of a First Grade College and that he is the Principal of a Professional College only. The University has produced the Electoral Roll of the members of the Senate of May 1980 and the nomination paper of the 2nd Respondent dated 21st May 1980 by a memo. The Petitioner is not satisfied with

these documents. In the Electoral Roll of the members of the Senate, the 2nd Respondent's name appears as SI. No. 59 as Dr. N. Narayanan Naif, Principal, Kerala Law Academy, Law College, Trivandrum. These documents were produced as requested for by the Petitioner. He is not still satisfied with the electoral roll. According to him, what he wanted was the electoral roll showing the voters list for Principals of First Grade Colleges. This contention necessitates a discussion about the scope of the definition of First Grade Colleges and Professional Colleges in the Act. The Kerala University first Statutes, 1977 issued under Kerala Act 17 of 1974 contains the definition. Statute 2(g) defines First Grade College, 2(i) junior college and 2(m) professional college as follows:

(g) "First Grade College" means a college which instructs students for examination qualifying for degrees;

(i) "Junior College" means a college imparting instruction in Pre-degree courses;

(m) "Professional College" means a college in which instruction is given in any of the following subjects, namely:

(1) Engineering and Technology,

(2) Medicine,

(3) Ayurveda,

(4) Law and

(5) Education;

The Petitioner's contention is that a professional college can never be a First Grade College. A College in which instruction is given in law is a professional college, while a First Grade College is a college which instructs students for examination qualifying for degrees. This submission fails to note, according to us, the definition of the word First Grade in statute 2(g). While it cannot be said that all professional colleges are not First Grade Colleges, professional colleges which instruct students for examination qualifying for degrees can be a First Grade College also. The definition in Section 2(g) and 2(m) is not mutually exclusive. A Law College which instructs in law but gives only diploma or some other certificate will not be a First Grade College. But a law college which instructs students for examination qualifying for degrees in law will certainly be a First Grade College also in addition to being a professional college. It is not disputed that the Law College in question is a college which instructs students for examination qualifying for degrees, and that being so, we hold that the Law College in question is both a professional college and a First Grade College. The above contention was pressed into service to disqualify the 2nd Respondent from getting elected to the Syndicate. The submission made is that the 2nd Respondent occupies a position in the Syndicate on the ground that he is the Principal of a First Grade College which, according to the Petitioner, he is not.

23. The 2nd Respondent had completed 4 years continuous service as Principal of

the Law College by the time Act 17 of 1974 was brought into force. u/s 17 of the Act, the Senate of the University consists of "Ex officio members, Elected members Life members and other members". Elected members, include 7 Principals elected from among themselves, of whom two shall be from among the Principals of Government Colleges, one from among Principals of professional colleges and one from among Principals of Junior colleges. The 2nd Respondent has in his affidavit stated that in the electoral roll of the Principals Constituency for the election to the Senate held in the year 1975 his name is included as one of the voters. He offered himself as a candidate and was duly elected as a member of the Senate. In the electoral roll for the Senate held in 1979 also, he was a voter and he was elected.

24. The Syndicate of the University has been constituted u/s 21 of Act 17 of 1974. The Syndicate consists of only "Ex officio members" and "Other members". The mode of election to the Syndicate is provided u/s 21 of the Act. The elected members of the Syndicate include 12 members elected by the Senate from among themselves of whom (z) six shall be persons who are not teachers, (ii) two shall be Principals of First Grade Colleges, of whom one shall be the Principal of a Government College and (iii) four shall be teachers who are not Principals, of whom one shall be a University teacher and one shall be a teacher of a Government College. The 2nd Respondent was elected as a member of the Syndicate first in the year 1976 and again during the year 1980. On our finding that the college in question answers to the definition of a First Grade College, we hold that his election to the Syndicate is valid and cannot be called in question.

25. We have already indicated our view that in a petition praying for the high prerogative writ of quo warranto it is not enough if the Petitioner seeking it creates some doubt about the status of the person against whom the petition is filed. We do not agree with the Petitioner that once notice is issued in the petition, the entire burden shifts on the Respondent. From the various materials placed before us, from the consistent conduct of the 1st Respondent and taking in view the high position the University occupies in the scheme of things, we hold that the Petitioner has not satisfactorily established either that the College is unaffiliated or that the appointment of the 2nd Respondent is not recognised or that the 2nd Respondent's election to the Syndicate is not valid. We therefore decline the reliefs prayed for.

26. Before parting with this case, we would like to make a few observations keeping in view against the position of an autonomous body like the University with its components. The Petitioner expressed an apprehension that his petition should not indirectly result to be a handy instrument for the 2nd Respondent to get the seal and imprimatur of this Court for the affiliation of his college and for his appointment as the Principal, while in fact, the documents emanating from the University did not categorically evidence permanent affiliation of the college or approval of the 2nd Respondent's appointment. This apprehension apart, we would desire that the University set before it certain norms and guidelines in

these matters. The University must be in a position to produce a document of a resolution evidencing provisional affiliation, a decision evidencing permanent affiliation on fulfilment of conditions, and a decision evidencing approval of the appointment of a Principal. In this case, we have rejected the Petitioner's case, on the basis of inference from the averments in the counter-affidavits and the documents produced. We have accepted the consistent conduct of the University in accepting the 2nd Respondent as a Principal and in accepting the plea of provisional affiliation from time to time. We have accepted the plea that no formal order is normally issued sanctioning permanent affiliation and ordering approval of appointments of Principals. We find no difficulty for the University to maintain papers evidencing their decisions. Maintenance of such documents would preserve the prestige of the University and can easily dispel unsavoury remarks against it and dissuade attack on its autonomy, independence and impartiality at the hands of those who try to denigrate it.

27. With these observations, we dismiss the petition with a direction that the parties will bear their costs.