

In the High Court of Judicature at Madras

Reserved on : 28.03.2019

Pronounced on: 24.04.2019

CORAM:

THE HON'BLE Dr. JUSTICE **ANITA SUMANTH**

W.P.Nos.26159, 26160, 26161, 26162, 26163, 26164,
26165 & 26166 of 2017
& W.M.P.Nos.27803, 27804, 27805, 27809, 26164,27797, 27798,
27799,27800,27801, 27802, 27806, 27807, 27808, 27810,
27811 & 27812 of 2017

Dr.R.SiddheswaranPetitioner in W.P.No.26159 of 2017
 Dr.N.KarthickPetitioner in W.P.No.26160 of 2017
 Dr.M.IndhumathiPetitioner in W.P.No.26161 of 2017
 Dr.S.GokulrajPetitioner in W.P.No.26162 of 2017
 Dr.R.SheelaraniPetitioner in W.P.No.26163 of 2017
 Dr.J.KavinaPetitioner in W.P.No.26164 of 2017
 Dr.B.PrameenaPetitioner in W.P.No.26165 of 2017
 Dr.D.Jesuvathy SornalathaPetitioner in W.P.No.26166 of 2017

--Vs--

1.The University Grants Commission
 Rep.by its Member Secretary
 Bahadur Shah Zafar Marg
 New Delhi 110 002

2.The Registrar
 University of Madras
 Centenary Building

Chepauk
Chennai 600 005

3.Pachaiyappa's Trust Board
Rep.by its Member Secretary
Mr.K.Hemanath
Pachaiyappa's College Campus
Poonamallee High Road
Chennai 600 030

...Respondents in all WP

4.The Principal
Pachaiyappa's College
Chennai 600 030

... 4th Respondent in W.P.Nos.26159,
26161, 26163, 26164, 26166 of 2017

5.The Principal
C.Kandaswami Naidu College for Men
Anna Nagar, Chennai 600102

... 4th Respondent in W.P.Nos.26160,
26162, 26165 of 2017

PRAYER in W.P.Nos.26159, 26161, 26163, 26164, 26166 of 2017: Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling relating to the order of the 2nd respondent herein dt. 13.09.2017 in A-II/MPV/Pachaiyappa's Trust/AP-Approval/2017/334 and quash the same and consequently, direct the respondents 2 and 3 herein to grant approval for the qualification of the petitioners as Assistant Professor in the Department of Physics and in Botany to petitioner in WP.No.26164 of 2017 in, Pachaiyappa's College, Chennai 600 030 and grant salary to the petitioners with all attendant benefits from the date of joining, viz.25.02.2016, 02.03.2016, 25.02.2016, 03.03.2016 & 25.02.2016 till date.

PRAYER in W.P.Nos.26160, 26162, 26165 of 2017: Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling relating to the order of the 2nd respondent herein dt. 13.09.2017 in A-II/MPV/Pachaiyappa's Trust/AP-Approval/2017/334 and quash the same and consequently, direct the respondents 2 and 3 herein to grant approval for the qualification of the petitioners as Assistant Professor in the Department of Physics in C.Kandaswami Naidu College for Men, Chennai 600 102 and grant salary to the petitioners with all attendant benefits from the date of joining, viz. all dated 25.02.2016 till date.

For Petitioner in W.P.Nos.26159, 26160,
26163 to 26166 of 2017

: Mr.AR.L.Sundaresan, S.C.

for Mrs.A.L.Ganthimathi

For Petitioner in W.P.Nos.26161
& 26162/2017 : Mr.P.V.S.Giridhar
for M/s.D.Prasanna

For respondents in W.P.Nos.26159/2017 : Mr.P.R.Gopinathan - R1
Mr.Manisundar Gopal - R2
Mr.K.V.Sundararajan for R3
No Appearance for R4

For respondents in W.P.Nos.26160,
26163 to 26166, 26161 and 26162/2017 : Mr.P.R.Gopinathan - R1
Mr.Manisundar Gopal - R2
No Appearance for R3 & R4

COMMON ORDER

Pachaiyappa's Trust Board was established under a scheme formulated by the Supreme Court in 1909. Arrayed as the 3rd respondent in all the Writ Petitions, the Pachaiyappa's Trust Board (in short 'PTB' or 'Board') runs several colleges that are aided by the Government, being Pachaiyappa's College, Chennai (PCC), C.Kandaswami Naidu College for Men, Chennai (CKNCMC), Chellammal Women's College, Chennai (CWCC), Pachaiyappa's College for Men, Kancheepuram (PCMK), Pachaiyappa's College for Women, Kancheepuram (PCWK) and C.Kandaswami Naidu College for Women, Cuddalore (CKNCW).

2. This batch of eight (8) writ petitions have been filed by individuals qualified for the post of Assistant Professor in the subjects of physics (7 petitioners) and botany (1 petitioner). Their qualifications are not in question. Since the contentions advanced are common across subjects, they are set out below without reference to specific subjects and may be taken to be the common submissions of all petitioners.

3. Heard Mr.AR.L.Sundaresan, learned senior counsel for Mrs.AL.Gandhimathi for the petitioners in W.P.Nos.26159, 26160, 26163 to 26166 of 2017 and Mr.P.V.S.Giridhar, learned counsel for Ms.D.Prasanna, learned counsel for the petitioners in W.P.Nos.26161 and 26162 of 2017. The prayers in Writ Petition are identical and one is extracted below for completion of narration, as follows:

Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling relating to the order of the 2nd respondent herein dt. 13.09.2017 in A-II/MPV/Pachaiyappa's Trust/AP-Approval/2017/334 and quash the same and consequently, direct the respondents 2 and 3 herein to grant approval for the qualification of the petitioners as Assistant Professor in the Department of Physics and in Botany to petitioner in WP.No.26164 of 2017 in, Pachaiyappa's College, Chennai 600 030 and grant salary to the petitioners with all attendant benefits from the date of joining, viz.25.02.2016, 02.03.2016, 25.02.2016, 03.03.2016 & 25.02.2016 till date.

4. There were 66 vacancies in the sanctioned posts of Assistant Professors/Librarian in PCC, CKNCMC, CWCC, PCMK, PCWK and CKNCW. Recruitment notices were issued in The Hindu and Daily Thanthi on 02.12.2015 calling for direct recruitments to the post of Assistant Professor in the Departments of Tamil, English, Sanskrit, Mathematics, Physics, Chemistry, Botany, Zoology, Commerce, Economics, Philosophy, History and Librarian. On-line applications were invited, the last date for submission being 16.12.2015.

5. In so far as physics is concerned, application for 12 posts were solicited, 6 in PCC, 3 in CKNCM, 2 in PCMK and 1 in PCWK. As far as botany is concerned, there were 3 vacancies in 3 colleges, one each in PCC, PCWK and CKNCWC. The petitioners are fully qualified to hold the position of Assistant Professor for Physics and Botany as per the norms issued by the University Grants Commission ('UGC') and applied for

the posts. A call letter was issued by R3 on 05.02.2016, calling upon the petitioners to appear for certificate verification and interview on 17.02.2016 at CKNCM.

6. The petitioners appeared for the interview before a Common Selection Committee and were selected for appointment to the respective posts to which they had applied. The petitioners joined the posts on 25.02.2016, 25.02.2016, 02.03.2016, 25.02.2016, 25.02.2016, 03.03.2016, 25.02.2016, & 25.02.2016 respectively and have been working in the posts till date.

7. On 18.09.2017, the petitioners received intimation from R3, conveying the decision/Resolution of the University of Madras, vide letter dated 13.09.2017, cancelling the approval granted in respect of their appointments. The ground on which the grant of approval was rejected as not approved, was that there was a lack of quorum as stipulated by the UGC at the time of selection. All letters are identical and one of the letters is extracted below for the sake of completion and clarity:

PACHAIYAPPA'S TRUST BOARD, CHENNAI-600 030

*Thiru. K.Hemanath, B.E., M.B.A.,
Campus,
Member Secretary
Nagar,*

*Pachaiyappa's College
E.V.R.Periyar Road, Shenoy*

*Chennai – 600 030
Phone: 044 26681001
Email:*

*vallalpachaiyappas1754@gmail.com
Rc.No.A1/536/2016*

Dated:18.09.2017

NOTE FROM THE MEMBER SECRETARY

*Sub: Aided Colleges -C.Kandaswami Naidu College for Men, Chennai-
Grant of Qualification Approval – Assistant Professors of Physics – Not
approved by the University – Letter – Received – Intimated – Reg.*

Ref: Letter of the registrar-in-charge, University of Madras
No.AII/MPV/Pachaiyappa's Trust/AP-Approval/2017/334, dated
13.09.2017.

The following individuals, who had been appointed as Assistant Professors of Physics in C.Kandaswami Naidu College for Men, Chennai are informed that the Registrar, University of Madras has sent a letter, cited under reference, informing the resolution passed by the Syndicate on 11.08.2017.

1.Dr.B.Prameena	A.P. Of Physics
2.Dr.S.Gokulraj	A.P. Of Physics
3.Dr.N.Karthick	A.P. Of Physics

Resolution:

Resolved that the grant of approval of qualification for the appointment of Assistant Professors in Physics in C.Kandaswami Naidu College for Men, Chennai be not approved for the said faculty members due to lack of quorum as stipulated by the UGC.

The copy of the letter of the Registrar, University of Madras, cited under reference, is enclosed herewith.

This is for the information of the said individuals concerned. Further, they are informed that the Pachaiyappa's Trust Board has sent an appeal to the University of Madras besides initiating further action as per the rules.

Sd/. XXX
MEMBER

SECRETARY

To

1.Dr.B.Prameena	A.P. Of Physics
2.Dr.S.Gokulraj	A.P. Of Physics
3.Dr.N.Karthick	A.P. Of Physics

Copy to the Principal, C.Kandaswami Naidu College for Men, Chennai.

8. The petitioners challenge the above communications by way of the present writ petitions. Counters affidavits have been filed by all the respondents objecting to the averments raised.

9. Regulation 3 of the 'UGC Regulations, 2000 regarding Minimum Qualifications for Appointment and Career Advancement of Teachers in Universities and Colleges' ('UGC 2000') sets out the guidelines to be followed for constitution of a selection committee and states thus:

3.0.0. Selection Committees recommended by the UGC

3.1.0 Lecturer in a Private College

1. Chairperson of the Governing Body of the college or his/her nominee to be the Chairperson of the Selection Committee.

2. The Principal of the concerned College.

3. One senior teacher/Head of the Department (of the concerned subject) preferably having not less than 10 years of services as a teacher.

4. Two nominees of the Vice-Chancellor of the affiliating University of whom one should be a subject expert.

5. Two subject-experts not connected with the College to be nominated by the Chairperson of the governing body out of a panel of names approved by the Vice-Chancellor.

For Government Colleges, the State Public Service Commissions must invite three subject experts for which the State Public Service Commissions will involve the University in the selection. The Principal and Head of the Department should be necessarily included in the Selection Committee.

The quorum for the meeting should be five of which at least two must be from out of the three subject experts.'

10. The Trust had addressed a communication dated 07.12.2015 to the University of Madras requesting it to furnish a panel of subject experts from out of which the Vice-Chancellor of each college may nominate experts to conduct the selection process for appointment to a specific college. The University of Madras furnished a list of Vice-Chancellor nominees and panel of subject experts to be included in the selection committee, separately per college and per department. This was communicated to the Secretary, Pachaiyappa's Trust Board vide communication dated 11.01.2015. Pursuant thereto and in line with Regulation 3.1.0 extracted above, a separate selection committee had been constituted in respect of each college and department in which vacancies were to be filled.

11. The list of nominees for Physics and Botany in the PCC and Physics in CKNCMC, are as follows (extracted from the communications issued by the University of Madras dated 11.12.2015 and 11.01.2016):

Pachaiyappa's College, Chennai

<i>Sl. No.</i>	<i>Subject</i>	<i>Two Nominees of the Vice Chancellor</i>	<i>PANEL of Subject Experts to be approved by the Vice-Chancellor</i>
<i>1,2,3...</i>		<i>...</i>	<i>...</i>
<i>4.</i>	<i>Physics</i>	<p>1) Dr.M.Ravichandran, Professor of Commerce and Director, University of Madras, IDE, Chepauk, Chennai – 600 005.</p> <p>2) Dr.C.Venkateswaran, Professor and Head, Dept. of Nuclear Physics, University of Madras, Guindy Campus, Chennai – 600 025.</p>	<p>1.Dr.R.Geetha, Associate Professor of Physics, Govt. Arts College for Men, Nandanam, Chennai – 600 035.</p> <p>2. Dr.K.H.Rajini, Associate Professor of Physics, Stella Marys College, Chennai – 600 086.</p> <p>3.Dr.K.Tamilarasan, Associate Professor of Physics, Sir Theagaraya College, Chennai -21.</p> <p>4. Dr.J.Madhavan, Associate Professor of Physics, Loyola College, Chennai 600 034.</p>
<i>...5</i>		<i>..</i>	<i>...</i>
<i>6.</i>	<i>Botany</i>	<p>1) Dr.N.Ravichandran Professor of Commerce and Director, University of Madras, IDE, Chepauk, Chennai – 600 005.</p> <p>2.) Dr.N.Mathivannan, Professor and Head, Department of Botany, University of Madras, Guindy, Chennai – 600 025.</p>	<p>1.Dr.V.Lilly, Associate Professor of Botany, Quaid-E-Milleth College for Women, Chennai – 600 002.</p> <p>2.Dr.S.Natarajan, Associate Professor of Botany, Gurunanak College, Chennai – 600 042.</p> <p>3.Dr.C.V.Citty Babu, Associate Professor of Botany, Presidency College, Chennai – 600 005.</p> <p>4.Dr.S.Selvaraju, Associate Professor of Botany, D.G.Vaishnav College, Chennai – 600 106.</p>

C.Kandaswami Naidu College for Men, Chennai		
1	Physics	<p>1) Dr.P.Ravishankar, Professor & Head, Department of Anna Centre for Public Affairs, University of Madras, Chepauk, Chennai -5. (University Representative on the Governing Body of the college for the period from 09.05.2014 to 08.05.2016)</p> <p>2)Dr.C.Venkateswaran Professor and Head, Dept. of Nuclear Physics, University of Madras, Chennai – 600 025.</p> <p>3) One Co- opted member (SC/ST common for all subjects) Dr.M.Sakthivel Asst. Professor of Geography, University of Madras, Chepauk, Chennai – 600</p>
		<p>1)Dr.K.Chitra, Associate Professor of Physics, Bharathi Women's College, Chennai – 600 108</p> <p>2) Dro.J.Madhavan, Associate Professor of Physics, Loyola College, Chennai – 600 034.</p> <p>3) Dr.N.Ramesh, Associate Professor of Physics, A.M.Jain College, Meenambakkam, Chennai – 114</p> <p>4.Dr.K.Tamilarasan, Associate Professor of Physics, Sir Theagaraya College, Chennai – 21.</p>

12. According to the University, some of the subject experts specifically nominated, such as C.Venkateshwaran and Dr.K.H.Rajini, (Physics) (PCC), Dr.N.Ramesh (Physics) (CKNMC) and Dr.N.Mathivanan (Botany) (PCC) had not attended the selection committee meeting and the selection had taken place in their absence. However, the interviews for selection had been conducted by a common committee comprising of several persons, including experts in the same subjects who had been appointed to be part of the committee for other colleges. Dr.R.Geetha (Physics), Dr.K.Chitra (Physics), Dr.V.Lilly (Botany) and Dr.S.Natarajan (Botany), all of who had, admittedly, been nominated had been part of the selection committee, had sat in for the selection of the candidates. Thus, the petitioners argue that since

there were subject experts in the committee that interviewed them, though nominated for another college, this would amount to substantial compliance with the UGC Regulations and the procedure followed, as well their selection, was proper.

13. The offending Resolution had been passed by the Syndicate on 11.08.2017 and conveyed to the Member Secretary, PTB vide letter dated 13.09.2017. The services of the petitioners had, as on that date, been availed of for a period of eighteen (18) months when the resolution was passed by the Syndicate.

14. The petitioners also argue that all Institutions managed by the Trust constitute a single unit/entity and thus the appointments by a consolidated and common committee are proper and valid. Thus, no separate committee need be constituted per college and per department. If the aforesaid stand be accepted, the requisite Quorum would have been achieved as there is no dispute on the position that there were other subject experts who were available and sitting as part of the selection committee and it is only specific persons who had been named for specific colleges who had absented themselves. The necessity for the nominated and named members pales into insignificance and insistence upon their presence loses relevance.

15. Letter dated 09.06.1993, from the Commissioner of Collegiate Education to the Secretary of the Pachaiyappa's Trust specifically refers to the Explanation under Rule 11 of the Tamil Nadu Private Colleges (Rules) 1976 to the effect that any educational agency established and administering more than one college set up under the control of the agency shall be treated as one unit for the purposes of appointment of staff, promotions, transfers etc. Thus, according to them, the colleges in question are all under the umbrella of a common agency and have rightly

constituted one single selection committee that has conducted all the interviews. The subject experts appointed to any one of the colleges are thus to be treated as experts for other colleges of the group as well.

16. The petitioners also point out that they have been in service since the date of their selection and it was only one and a half years after they assumed charge that the offending Resolution dated 11.08.2017 has been passed by the University. They have since been rendering service by virtue of an order of stay granted by this Court without the benefit of pay, and are evidently, greatly prejudiced.

17. The petitioner relies on the following cases:

Union of India & Others V. Sh.Somasundaram Viswanath and others (AIR 1988 SC 2255)

J.M.Jacqueline Maley & Ors. V. Union of India & Ors. ((2009) 7 MLJ 749)

State of M.P. And Ors. V.Lalit Kumar Verma ((2007) 1 SCC 575)

Municipal Corpn., Jabalpur V. Om Prakash Dubey ((2007) 1 SCC 373)

Dr.K.R.S.Girija Shyamsundar and others V. The State of Tamilnadu (2015-3-L.W.163)

18. Mr.P.R.Gopinathan, appears for the UGC, Mr.Manisundar Gopal for the University of Madras and Mr.K.V.Sundararajan for PTB.

19. Learned counsel for the University vehemently objects to the case of the petitioners. He takes me through the UGC Regulations that set out the Constitution of the Selection Committee. Regulation 3 prescribes the composition of the Committee for selection and appointment of a lecturer in a private college. The constitution is, (i) Chairperson of the governing body of the college or nominee as Chairperson, (ii) the Principal of the concerned College, (iii) one senior teacher/Head of the department of

the concerned special subject preferably carrying not less than ten(10) years of service as a teacher, (iv) two nominees of the Vice Chancellor one of whom should be a subject expert and (v) two subject experts unconnected with the college to be nominated by the Chairperson of the Governing body, out of a panel of names approved by the Vice Chancellor. The Quorum prescribed is five (5) Members.

20. According to him, the above Rule has not been scrupulously adhered to and in some cases even the Quorum has not been achieved. Where the Quorum has been achieved, the committee does not contain the stipulated number of subject experts. According to him, the UGC Regulations are mandatory and any deviation in regard to the constitution of the Selection Committee would be fatal to the validity of the appointments made by such Committee. This is his primary submission.

21. The constitution of the committee for appointment of Assistant Professors, Physics in PCC, and the attendees therein, was, according to the University, as below:

UGC Regulation	Composition of members		Present/ Absent
	V.C. nominee	Other members	
Chairperson or his nominee		S.Jayachandran (1)	Present
Principal of the concerned college		Dr.P.Gajivaradhan (2)	Present
Sr.Teacher/HOD		Dr.Arulmozhi Chelvan(3)	Absent
Two nominees of the VC	Dr.M.Ravichandran(4)		Absent
	Dr.C.Venkateshwaran (Subject Expert) (5)		Absent
Two Subject experts nominated by the Chairperson out of the panel given by the VC	Dr.R.Geetha (6)		Present
	Dr.K.H.Rajini (7)		Absent

TOTAL : 7

PRESENT: 3

University representative for SC/ST/Women etc.	Dr.B.Venugopal		Present
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22. The constitution of the committee for appointment of Assistant Professors, Physics in the CKNCMC and the attendees therein, was as below:

UGC Regulation	Composition of members		Present/ Absent
	V.C. nominee	Other members	
Chairperson or his nominee		Mr.S.Jayachandran(1)	Present
Principal of the concerned college		Dr.P.Sekar (2)	Present
Sr.Teacher/HOD		Dr.G.R.Ramkumar(3)	Present
Two nominees of the VC	Dr.P.Ravishankar(4)		Present
	Dr.C.Venkateshwaran (Subject Expert) (5)		Absent
Two Subject experts nominated by the Chairperson out of the panel given by the VC	Dr.K.Chitra (6)		Present
	Dr.N.Ramesh (7)		Absent

TOTAL: 7

PRESENT: 5

University representative for SC/ST/ Women etc.	Dr.Mr.M.Shaktivel		Present
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23. The constitution of the committee for appointment of Assistant Professors, Botany in PCC, and the attendees therein, was as below:

UGC Regulation	Composition of members		Present/ Absent
	V.C. nominee	Other members	
Chairperson or his nominee		Dr.S.Jayachandran(1)	Present
Principal of the concerned college		Dr.P.Gajivaradhan(2)	Present
Sr.Teacher/HOD		Dr.K.Umarajan (3)	Absent

Two nominees of the VC	Dr.M.Ravichandran(4)		Absent
	Dr.N.Mathivanan (Subject Expert) (5)		Absent
Two Subject experts nominated by the Chairperson out of the panel given by the VC	Dr.V.Lilly (6)		Present
	Dr.S.Natrajan (7)		Present

TOTAL : 7

PRESENT: 4

University representative for SC/ST/ Women etc.	Dr.B.Venugopal		Present
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24. In addition to the prescription in Regulation 3, a University representative for SC/ST/Women was also included in all three committees as above. According to learned counsel for the University, this additional member was included only as a measure of abundant caution and in line with the 2010 Regulations, there being no such provision in UGC 2000 for such a member.

25. Learned counsel relies on the following cases to bolster his submissions:

- (i) *The Secretary, Kamaraj College, Thoothukudi V. D.S.Arulmani, Reader etc.* (2008-1-L.W.530)
- (ii) *Kalyani Mathivanan V. K.V.Jeyaraj and others* ((2015) 6 SCC 363

26. Secondly, he states that the Explanation to Rule 11 relied on by the petitioners does not apply to them at all. According to him the Explanation is placed at the end of sub-rule 4 and is thus applicable specifically only to the said sub-rule, which talks about promotions. Thus it is only for the purpose of promotions that the Explanation would apply and not for the purpose of recruitment per se.

27. Mr.K.V.Sundararajan, learned counsel for the Trust commences by stating that he only assists the Court and endeavors to ensure that the correct law is laid down. His mandate is not to support any private or individual interest. I quote him as specifically stating that that there is no allegation of malpractice involved in the procedure for selection nor is there any deficiency in the rendition of services by the petitioners as faculty, post their appointments.

28. This Court had, by its order dated 14.06.2018, appointed a retired Judge of this Court, Justice P.Shanmugam, as Interim Administrator for conduct of the Elections to the Trust and to administer the Board till such time the new Board of Trustees takes over.

29. A common counter dated 01.03.2019 has been filed by the Secretary appointed by the Interim Administrator suggesting that the fixation of a combined selection committee is not in accordance with Regulation 3 of the UGC 2000. The Trust also urges that the 'single unit' principle set out in Rule 11(4) of the Tamil Nadu Private Colleges (Regulations) Rules 1976 will apply only in the case of promotions. The Trust thus suggests that the common selection that has been undertaken is not in conformity with the UGC Regulations and does not have any support in law. Thus, PTB, in effect sails with the University in stating that the procedure followed by the erstwhile Board in the manner of appointments was improper and contrary to the Regulations.

30. On an appreciation of the factual and legal submissions made by all learned counsel and the rival contentions advanced, the issues that I am called upon to resolve are crystallized below:

(i) Whether the Board attracts Explanation under Rule 11(4)(i) and (ii) of the Tamil Nadu Private Colleges (Rules), 1976 and whether all colleges set up and managed by and under the Board are to be treated as one unit for purposes of appointment/promotions/transfers of staff?

(ii) Whether the University Grants Commission (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) Regulations, 2000, are mandatory or directory?

(iii) Whether the procedure followed for selection of the candidates is proper in the light of the UGC Regulations 2000 and consequently whether the impugned Resolutions holding the appointments to be invalid are to be upheld?

31. Adverting to the first issue, Rule 11 deals with 'Conditions of service etc. of teachers and other persons in college'. Sub-rule (1) talks about the cap on the appointments stating that the number of teachers employed shall not exceed the number of posts fixed by the Director. Sub-rule (1-A) to (1-D) deals with 'reservation' with which we are not concerned in these Writ Petitions. Sub-rule (2) refers to documentation to be entered into with the employees other than teachers with the college. Sub-rule (3) refers to the methodology for filling up of regular and temporary vacancies. Sub-rule (4) talks about promotions in respect of the teaching staff and the methodology for filling the same. The Rule, to the extent it is relevant for the purposes of this Writ Petition is extracted below, along with the Explanation thereto:

'11. Conditions of service, etc. of teachers and other persons in college:-

(1) The number of teachers employed in a college shall not exceed the number of posts fixed by the Director, from time to time, with reference to the academic requirements and norms of work load prescribed by the respective Universities and overall financial consideration.

(1-A)...

(1-B)...

(1-C)...

(1-D)...

(2)(i) The committee of every college shall enter into an agreement with the teachers in Form 7-A and with the employees other than teachers in Form 7-C. If the appointment is for a period not exceeding three months, the agreement shall be made in Form 7-B in the case of teachers and in Form 7-D in the case of employees other than teachers.

(ii).....

(3) In the case of regular vacancies, a fully qualified candidate shall be appointed only on a regular basis. However, in a temporary vacancy arising on account of leave, deputation for training or suspension, etc., a qualified candidate may be appointed temporarily for a specified period provided that such teachers' services shall not be terminated before the expiry of the said period.

4(i) Promotions in respect of teaching staff shall be made on grounds of merit and ability, seniority, being considered only where merit and ability are approximately equal, and in respect of non-teaching staff promotions shall be made on seniority basis, provided other conditions regarding qualification are satisfied.

(ii) The committee shall fill up the posts by promotion or by direct recruitment. The committee shall, while making promotion, consider the claims of all the qualified teachers in that college. If, however, none of the qualified teachers in the college is found suitable for promotion, the vacancy shall be filled up by direct recruitment by calling for applications from qualified persons through the Press or by calling for a list of candidates from the Employment Exchange by

following the rule of reservation ordered by the Government from time to time for direct recruitment.

Explanation – For purposes of this rule, if an educational agency has established and administered more than one college, then the colleges under the control of that educational agency shall be treated as one unit.'

32. The Explanation is placed at the end of the sub-rule (4) and states that '*for the purpose of this rule*', if the educational agency administers more than one college, then all colleges under its control shall be treated as one unit. The word used is 'rule' and not 'sub-rule'. Moreover, the Explanation is placed in the centre of the Rule and Rules (1) to (4) refer to various parameters in regard to conditions of service of teachers including matters of employment, either by way of direct recruitment or by way of promotion.

33. I am thus of the view that the Explanation would refer to Rule 11, sub-rules 1 to 4 and not sub-rule 4 alone. I also go by the literal word used, being 'rule' and not 'sub-rule'. If the intention of the Explanation was to restrict the same only to promotions, then the word used would have been 'sub-rule' and not 'rule'.

34. I am also inclined to take this view in the light of the position that both the Board as well as the authorities, more significantly the latter, appear to have been of the opinion that the Pachaiyappas Trust Board is an Educational Agency for the purposes of the Tamil Nadu Private Colleges (Regulations) Act, 1976, (in short 'TNPCR Act'), a view that is in consonance with Rule 11 itself. An Educational Agency is defined under Section 4 of the aforesaid Act as follows:

(4) "**educational agency**", in relation to-

(a) any minority college, means any person who, or body of persons which, has established and is administering or proposed to establish and administer such minority college; and

(b) any other private college, means any person or body of persons permitted or deemed to be permitted under the Act to establish and maintain such other private college.

35. My attention has also been drawn to a communication inter se the Commissioner of Collegiate Education and the PTB as early as in 1993 that supports my view, as aforesaid. The communication is extracted in full below:

'From V.Palanichamy, I.A.S.
Commissioner of Collegiate
Education,
Madras -6

To
The Secretary,
Pachaiyapa's Trust,
Madras.

Rc.No.73158/F2/92, dated 09.06.93

Sir,

Sub: Aided Colleges – Colleges under Pach.Trust –
Applicability of re-deployment – Clarification –
Sought for – reg.

Ref : Your letters Rc.No.A4/8297/90, dt 29.10.92
And 14.12.92.

With reference to your letters cited, I am to inform you that as per the explanation under rule 11(4)(i) & (ii) of Tamil Nadu Private Colleges (R) Rules 1976, if any Educational agency has established and administered more than one college then the colleges under the control of the Educational agency shall be treated as one unit. Accordingly the six colleges administered by the Pach.Trust should be treated as one unit for purposes of appointment of staff, their promotions, transfers etc. subject to the Court verdict on the W.Ps. filed by Tmt.Tamilselvi and Thiru K.Venkataraman.

In view of the above, I am also to state that the pay of the incumbent who are transferred from one college to another within the same management may be claimed in the pay rolls of the respective colleges where they are actually working.

Yours faithfully,
Sd/.

V.Palanichamy
Commissioner of Collegiate Education,

Copy to:

- 1.Regional Dy.D.C.E., Madras –Region, Madras -2.
- 2.Regional Dy.D.C.E., Trichy Region, Trichy.

/true copy/
Sd./
For Commissioner of Collegiate Education'

36. The PTB is admittedly engaged in the Management of multiple Colleges and thus constitutes an Educational Agency for the purposes of the TNPCR Act. The clarification issued by the Commissioner of Collegiate Education makes it more than clear that all six colleges administered by the Board will be treated as one Unit, not merely for promotions as is urged and suggested by the respondents but also for purposes of appointment of staff, transfers, etc. For the aforesaid reasons, I accept the first submission of the petitioners that all colleges under the control of PTB shall be treated as one unit, the Board being the 'common educational agency' in respect of them all.

37. In doing so, I am conscious of the position that I have taken a stand contrary to the arguments advanced not only by the UGC and the University of Madras but also by the present Interim Board. The counter suggests that the constitution of the combined selection committee '*may not be*' in accordance with the UGC Regulations, 2000 as the principle of one common educational agency with multiple colleges under its Management would only be applicable for promotions. These are the only flaws pointed out, which, if accepted, are serious and would certainly vitiate the selection process in full. However, in the light of the discussion as aforesaid, I reject the aforesaid suggestions/argument of the respondents. The first issue is answered in favour of the petitioner reiterating that (i) the Board constitutes an Educational Agency (ii) all six colleges managed in common by the Board

constitute one unit and (iii) consequently, the proviso located after sub-rule 4 would apply to sub-rules 1 through 4 of Rule 11 and not merely to sub-rule 4. Incidentally, the counter filed refers to writ petitions of the year 2016 challenging the selection of other Assistant Professors and urges that the additional counter affidavit filed in those Writ Petitions also be taken into account by me in disposing this batch of Writ Petitions. Such an omnibus request could have been considered had the other Writ Petitions of the year 2016 been clubbed and placed for consolidated hearing after following appropriate procedure in that regard. There has been no request along these lines at any juncture and this has not been done. This averment in counter has also not been pursued during the detailed hearing and I refer to the same here only for the sake of completion.

38. Now I advert to the second issue as to whether the UGC Regulations are mandatory or only directory, for the purpose of which I analyze some judgments cited at the Bar, and extracted below.

39. In the case of *Kalyani Mathivanan Vs. K.V.Jeyaraj and Other* reported in [(2015) 6 SCC 363] at paragraph 27, the Supreme Court states thus:

27. From the aforesaid provisions, we find that the University Grants Commission has been established for the determination of standard of Universities, promotion and co-ordination of University education, for the determination and maintenance of standards of teaching, examination and research in Universities, for defining the qualifications regarding the teaching staff of the University, maintenance of standards etc. For the purpose of performing its functions under the UGC Act (see Section 12) like defining the qualifications and standard that should ordinarily be required of any person to be appointed in the Universities [see Section 26(1)(e)(g)] UGC is empowered to frame regulations. It is only when both the Houses of the Parliament approve the regulation, the same can be given effect. Thus, we hold that the U.G.C. Regulations though a subordinate legislation has binding effect on the Universities to which

it applies; and consequence of failure of the University to comply with the recommendations of the Commission, the UGC may withhold the grants to the university made out of the Fund of the Commission. (See Section 14)

This judgment is sought to be distinguished by the petitioners on the ground that it applies to the appointment of a Vice-chancellor, which is a non-teaching post.

40. In the case of *The Secretary, Kamaraj College, Thoothukudi-629003 Vs. D.S.Arulmani, Reader and Head of Department of Tamil, Kamaraj College, Thoothukudi-628 003 and Others* [(2008) 1-L.W.530] at paragraphs 24, 25, 31, and 43, a Division Bench of this Court considered the question as to whether the UGC Regulations were mandatory and also what the interplay between the aforesaid Regulation and State level prescriptions for selection of candidates for colleges, would be. The Bench, in the aforesaid context states thus:

24. Thus, the Tamil Nadu Act is primarily intended to regulate (i) the establishment of Private Colleges and (ii) the management and administration of the affairs of the private colleges. Therefore, all the provisions of the Tamilnadu Act will have to be read, interpreted and understood only in the context in which they have been made and the purpose they seek to achieve.

25. If that is so, then the next question that arises for consideration is as to whether the constitution of Selection Committees in a particular manner, is a matter that could be traced to the "co-ordination and determination of standards" (relating to Entry 66 of List I) or to the "establishment and management of educational institutions" (relating to Entry 25 of List III). The contention of the appellants is that while the prescription of qualifications for teachers, would fall within the ambit of "co-ordination and determination of standards", the constitution of Selection Committees in a particular manner, has nothing to do with "co-ordination and determination of standards".

. . . .

31. Once it is found that the impugned Regulations could be traced only to the law making power under Entry 66 of List I and that the constitution of the Selection Committee prescribed by the

Regulations, is wholly with a view to maintain standards in institutions, then the question of repugnancy and the question of encroachment into occupied field does not arise. A situation converse to the one on hand was considered by the Supreme court in State of Andhra Pradesh v. K. Purushotham Reddy , and the Apex court held as follows:

19. The conflict in legislative competence of Parliament and the State Legislatures having regard to Article 246 of the Constitution of India must be viewed in the light of the decisions of this Court which in no uncertain terms state that each entry has to be interpreted in a broad manner. Both the parliamentary legislation as also the State legislation must be considered in such a manner so as to uphold both of them and only in a case where it is found that both cannot coexist, the State Act may be declared ultra vires. Clause (1) of Article 246 of the Constitution of India does not provide for the competence of Parliament or the State Legislatures as is ordinarily understood but merely provides for the respective legislative fields. Furthermore, the courts should proceed to construe a statute with a view to uphold its constitutionality.

25. In R. Chitralekha v. State of Mysore , Subba Rao, J. categorically held that the question as regards the impact of Entry 66 List I and Entry 25 List III must be determined by reading the Central Act as well as the State Act conjointly. A State law providing for such standards having regard to Entry 66 of List I would be struck down as unconstitutional only in the event the same is found so heavy or devastating so as to wipe out or appreciably abridge the Central field and not otherwise. Once the powers and functions of the Council are found to be subject to the guidelines issued by UGC and the perspective plan prepared by it would be subject to its approval, the question of standard of education set up by the State Act cannot be said to be leading to wipe out or appreciably abridge the Central field.

Therefore the real endeavour of the Court in such circumstances should be to save both the legislations and to see if they could co-exist. In the present case, the "College Committee" prescribed by the Tamil Nadu Private Colleges (Regulation) Act is different from the "Selection Committee" prescribed by the impugned U.G.C. Regulations. Both of them cannot co-exist and hence, the State Act (relating to Entry 25 of List III) has necessarily to give way for the impugned U.G.C. Regulations (relating to Entry 66 of List I).

43. It was contended on behalf of the appellants that the impugned Regulations could be construed only as recommendatory in nature and not as mandatory. However, we are unable to accept the said contention. In *Vidya Dhar Pande v. Vidyut Grih Siksha Samiti* AIR 1989SC 341: (1988) 4 SCC 734 : 1989-I-LLJ-81 it was held as follows:

"8.The question whether a regulation framed under power conferred by the provisions of a Statute has got statutory power and whether an order made in breach of the said Regulation will be rendered illegal and invalid came up for consideration before the Constitution Bench in the case of *Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi* AIR 1975- SC 1331 : (1975) 1 SCC 421 : 1975-I-LLJ-399 : (1975) 3 SCR 619. In this case, it was held that:

"There is no substantial difference between a rule and a regulation inasmuch as both are subordinate legislation under powers conferred by the statute. A regulation framed under a statute applies uniform treatment to everyone or to all members of some group or class. The Oil and Natural Gas Commission, the Life Insurance Corporation and Industrial Finance Corporation are all required by the statute to frame regulations inter alia for the purpose of the duties and conduct and conditions of service of officers and other employees. These regulations impose obligation on the statutory authorities. The statutory authorities cannot deviate from the conditions of service. Any deviation will be enforced by legal sanction of declaration by courts to invalidate actions in violations of rules and regulations. The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employee a statutory status and impose restriction on the employer and the employee with no option to vary the conditions".

9. There is therefore, no escape from the conclusion that regulations have force of law. The order of the High Court must therefore be reversed on this point unhesitatingly".

Again in *Medical Council of India v. State of Karnataka and Ors.* AIR 1998 SC 2423 : (1998) 6 SCC 131, it was held as follows:

"24. ...Regulations framed under Section 33 of the Medical Council Act with the previous sanction of the Central Government are statutory. These regulations are framed to carry out the purposes of the Medical Council Act and for various purposes mentioned in Section 33. If a regulation falls within the purposes referred under Section 33 of the Medical Council Act, it will have mandatory force. Regulations have been framed with reference to Clauses (fa), (fb) and (fc) (which have been introduced by the Amendment Act of 1993 w.e.f. 27.08.1992) and Clauses (j), (k) and (l) of Section 33."

In St. Johns Teachers Training Institute v. Regional Director, N.C.T.E. 2003 AIR SCW 894 it was held as follows:

"The main justification for delegated legislation is that the legislature being over burdened and the needs of the modern day society being complex it cannot possibly foresee every administrative difficulty that may arise after the Statute has begun to operate. Delegated legislation fills those needs. The Regulations made under power conferred by the Statue are supporting legislation and have the force and effect, if validly made, as the Act passed by the competent legislature. (see Sukhdev Singh v. Bhagatram AIR 1975 SC 133)."

The above view was reiterated in Maharashtra University of Health Sciences v. Paryani Mukesh Jawaharlal and Ors. 2007(3) ESC 467 (SC) on the following lines:

"MCI has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. The regulations framed by the MCI with the previous sanction of the Central Government, in regard to any of the matters referred to in Section 33 of the Indian Medical Council Act, 1956, will have statutory force and are mandatory. Universities must necessarily be guided by the MCI Regulations. Any regulations made by the Universities which are inconsistent with the MCI Regulations, or which dilute the criteria laid down by MCI will not be valid to the extent of inconsistency or dilution."

Therefore, the impugned Regulations have statutory force and the Universities as well as the Colleges affiliated to the Universities are obliged to follow the same.

. . . .

45. In fine, we hold that the impugned U.G.C. Regulations, more particularly, paragraph Nos. 3.1.0 and 3.5.0 of the same, are perfectly valid and there are no valid and proper reasons to strike down the same as unconstitutional and ultravires. The writ Appeal Nos. 585 and 1305 of 2006 arising out of W.P. No. 17630 of 2005, are devoid of merits. The selection of Dr. J. Mohanraj as the Principal of Kamaraj College, Tuticorin, (appellant in W.A. No. 585 of 2006) by a Committee other than the Selection Committee prescribed by the U.G.C. Regulations, 2000, has been rightly set at naught by a well considered judgment of the learned Judge. We see no reason to interfere with the said Judgement. Consequently, all the writ appeals are dismissed. Connected M.Ps. are closed. No costs.

41. Per contra, the petitioners refer to some judgments holding that the Regulations are only recommendatory and in any event, the flaw in selection procedure, if any, in the present cases, constitutes only an irregularity and not an illegality. The Division Bench of this Court in *J.M.Jacqueline Maley Vs. Union of India* (2009-7-MLJ-749) has held as follows:

Though the authorities have deviated from the earlier mode of selection of test/interview to that of taking into consideration the 50% of the marks obtained in the SSLC or its equivalent and 50% of marks obtained in Diploma/Degree in Pharmacy secured by the candidates, they have strictly followed the latter version and have selected the meritorious candidates among the applicants, to which no motive or malafide intention has either been attributed or proved by the applicants/unsuccessful candidates. Therefore, we are in complete agreement with the arguments advanced on the part of the successful candidates that if at all the appointments of the selected candidates could only be irregular and can never be illegal, in view of our above discussion, and therefore, they need not be made to suffer any further agony.

42. In *Dr.N.Nagbhushanam Vs Vasudeva Reddy and another* W.A.No.574 and Batch of 1995 decided on 08.08..1996 (1996 SCC Online AP 535), a Division Bench of the Andhra Pradesh High Court considered the appointments made by the Shri Venkateswara University. The challenge was on the ground that the constitution of the selection committee was illegal. After considering several judgments cited at the Bar, the Bench came to the conclusion that the appointments were valid notwithstanding that a few members of the Committee has been absent on the date of selection.

43. The petitioners also argue that the applicable Regulations would be the 2010 UGC Regulations and not those issued in 2000. The University has itself included a member of the SC/ST/Woman in the committee thus clearly following only

the 2010 Regulations. Thus it is estopped from contending that the selection process is in violation of the 2000 Regulations. Reliance, in this regard is placed on a decision of this Court in the case of *The Chairman of Board of Rustees vs. Dr.K.R.S.Girija Shyamsundar* (W.A.No.1222 of 2015, order dated 22.06.2017, passed by a Division Bench of this Court). This objection cannot be sustained in the light of the response of the University pointing out that both the 2000 as well as the 2010 Regulations are in pari materia with each other in regard to the procedure to be adopted for selection of candidates except for the addition of the SC/ST/Woman member in the latter. This submission has not been controverted by the petitioner and is thus accepted as reflecting the correct position.

44. There is no doubt that the UGC Regulations have been held to be mandatory and are to be strictly and scrupulously adhered to. The second issue is answered accordingly. Having said so, the Regulations have to be seen and applied in the context of the structure of the Institution itself and not in a vacuum. I have taken the view that the Board constitutes an Educational Agency and all six colleges form a single unit under its umbrella and I now proceed to examine the procedure followed by the Board in making the appointments in question, in the light of my decisions on the issues as aforesaid, bringing me to the third issue.

45. The selection procedure for a lecturer in a private college has been set out in the UGC Regulations, specifically Regulation 3 of the Notification issued in March 2000, constituting the constitution of Committee. I have adverted to the same earlier in this order and do not refer to same again for the sake of brevity. The educational qualification of the petitioners before me viz-a-viz the post they are appointed to, are

not in dispute nor is their competence. Importantly, there is no allegation of impropriety in the selection of the candidates as noted by me elsewhere as well.

46. The constitution of and the quorum of the committee in the case of the petitioners is set out below:

In respect of the appointment of Dr.J.Kavina (Botany) in Pachaiyappa's College, Chennai the following five (5) members were present, two (2) of whom were subject experts.

Chairperson	S.Jayachandran
Principal of the College	Dr.P.Gajivardhan
Two Nominees of the University of Madras of whom one should be subject expert	N.A
Two subject-experts nominated by the Chairperson	Dr.V.Lilly Dr.C.V.ChittyBabu
One common Nominee of SC/ST/OBC/Minority/Women	Dr.B.Venugopal (SC/ST)

In the case of Assistant Professors (Physics) of C.Kandaswamy College for Men the following six (6) members were present including two (2) subject experts.

Chairperson	S.Jayachandran
Principal of the College	Dr.P.Sekar
HOD(Physics)	Dr.G.R.Ramkumaar
Two Nominees of the University of Madras of whom one should be subject expert	Dr.P.Ravishankar
Subject-experts nominated by the	Dr.K.Chitra
Chairperson	
One common Nominee of SC/ST/OBC/Minority/Women	Dr.M.Sakthivel (SC/ST/Women)

In the case of Assistant Professors (Physics) for Pachaiyappa's College, Chennai, the following four (4) members were present, including one (1) subject expert:

Chairperson	S.Jayachandran
Principal of the College	Dr.P.Gajivardhan
Subject-experts nominated by the Chairperson	Dr.R.Geetha
One common Nominee of SC/ST/OBC/Minority/Women	Dr.B.Venugopal (SC/ST/Women)

In addition to Dr.R.Geetha of Pachaiyappa's College, Chennai, a subject-expert, Dr.K.Chitra was also present. Both are admittedly in the panel of subject-experts recommended by the University of Madras though the latter was in the panel for the CKNCMC.

47. However, since all colleges fall under the agency of the PTB and constitute a single unit, the application of Regulation 3, stipulating the aspect of Constitution and Quorum of Committee should be viewed in that background.

48. The petitioners state that the selection process took place in CKNCMC and this is not disputed either in counter or in the course of the arguments before me. From the records of selection produced before me, the selection appears to have taken place qua subject, and not qua college. The proceedings have been scanned and are extracted below:

WEB COPY

PACHAIYAPPA'S TRUST BOARD, CHENNAI - 30													
Direct Recruitment for the post of Assistant Professors (62) / Librarian (4)													
Programme for conduct of Interview - Schedule - DATE 17-02-2016													
Faculty Code	Subject	No. of Candidates		Total No. of Candidates	No of Staff required for Certificate Verification	Distribution of Candidates per Booth / Board per day				Code Number given for Certificate Verificate (CV) Booth	Code Number given for Interview Board - I/II/III/IV/V/VI	No of Candidates to be Selected / Reserve	Remarks
		Online	Employ			F.N - 9.00 A.M		A.N - 2.00 P.M					
001	TAMIL	72	10	82	2 / Booth - I	001	050	051	082	TAM - CV-I	TAM - BOARD-I	2/2	
002	PHILOSOPHY	19	5	24	1 / Booth - I	001	024			PHIL - CV-I	PHIL - BOARD-I	7/7	
003	LIBRARIAN	38	13	51	2 / Booth - I	001	051			LIB-CV-I	LIB - BOARD-I	4/4	
004	SANSKRIT	1	5	6	1 / Booth - I	001	006			SANS - CV-I	SANS - BOARD-I	1/1	
005	BOTANY	36	15	51	2 / Booth - I	001	051			BOT - CV-I	BOT - BOARD-I	3/3	
006	PHYSICS	103	41	144	2 / Booth - I	001	075	076	144	PHYS - CV-I	PHYS - BOARD-I	12/12	

49. Thus, each committee constituted qua subject has sat in attendance to select the candidates for all colleges in one location. Though some named nominees are admittedly absent, other subject experts are, also admittedly, present in the very

same committee. This has resulted in a committee qua subject that has members in excess of the required quorum, including the required number of subjects experts. There can, in my view, be no infirmity in this manner of selection, seeing as all colleges constitute one single unit.

50. Moreover, the composition of the selection committee and attendees filed by the Board and extracted below, confirm unequivocally the position that there are sufficient subject experts in attendance at the common selection who have been part of the committee formed qua subject during the selection process.

PACHAIYAPPA'S TRUST BOARD, CHENNAI-600 030 Direct Recruitment for the Post of Assistant Professors/Librarian S.No. COMMON SELECTION COMMITTEE MEETING PRESENT OF THE PACHAIYAPPA'S TRUST BOARD AIDED ON ARTS & SCIENCE COLLEGES UNDER UGC 17-02-2016 REGULATION		
1	Thiru.S.JAYACHANDRAN (President/Chairman) Chairperson of Governing Body	Signed
2	Dr.P.GAJIVARADHAN (Principal) Pachaiyappa's College Chennai-30	Signed 17.02.2016
3	Dr.P.SEKAR (Principal) C.Kandaswami Naidu College for Men Chennai-102	Signed 17.02.2016
4	Dr.(Tmt) V.G.VIJAYALAKSHMI (Principal) Chellammal Women's College Guindy Chennai-32	Signed 17.02.2016
5	Dr.S.KALIRAJ (Principal) Pachaiyappa's College for Men Kanchipuram	Signed 17.02.2016
6	Dr. Tmt. R.SUBBULAKSHMI (Principal) Pachaiyappa's College for Women Kanchipuram	Signed 17.02.2016
7	Dr.(Tmt.) MALLIKA CHANDIRAN (Principal) C.Kandaswami Naidu College for Women Cuddalore	Signed 17.02.2016

001 – TAMIL

....

010 – ENGLISH

....

004 - SANSKRIT

....

008 - MATHEMATICS**006 - PHYSICS**

- 43 DR. P. ARULMOZHICHELVAN (HOD) Physics
Pachaiyappa's College Chennai-30
- 44 DR. G.R. RAMKUMAR (HOD) Physics Signed
C.Kandaswami Naidu College for Men, Chennai 17.02.2016
- 45 MR. J. GOVINDARAJ (HOD) Physics Signed
Pachaiyappa's College for Men, Kanchipuram 17.02.2016

PACHAIYAPPA'S COLLEGE, CHENNAI

- 46 DR. M. RAVICHANDRAN
University of Madras – V.C. Nominee
- 47 DR. C. VENKATESWARAN
University of Madras – V.C. Nominee
- 48 DR. R. GEETHA Signed
University of Madras – Subject Expert (Nominated by 17.02.2016
Chairperson)
- 49 DR. K.H. RAJINI
University of Madras – Subject Expert (Nominated by
Chairperson)
- 50 DR. B. VENUGOPAL Signed
University of Madras- Nomination- Academician
Representing SC/ST/WOMEN/MINORITY etc.,

C.KANDASWAMI NAIDU COLLEGE FOR MEN, CHENNAI

- 51 DR. P. RAVISHANKAR Signed

- University of Madras – V.C. Nominee 17.02.2016
- 52 DR. C. VENKATESWARAN
University of Madras – V.C. Nominee
- 53 DR. K. CHITRA Signed
University of Madras – Subject Expert (Nominated by Chairperson) 17.02.2016
- 54 DR. N. RAMESH
University of Madras – Subject Expert (Nominated by Chairperson)
- 55 DR. M. SAKTHIVEL Signed
University of Madras – Nomination-Academician 17.02.2016
Representing SC/ST/WOMEN/MINORITY etc.,)
- PACHAIYAPPA'S COLLEGE FOR MEN, KANCHIPURAM**
- 56 DR. S. ELUMALAI Signed
University of Madras – V.C. Nominee 17.02.2016
- 57 DR. G. ANBALAGAN Signed
University of Madras – V.C. Nominee 17.02.2016
- 58 DR. AZHAGIRI Signed
University of Madras – Subject Expert (Nominated by Chairperson) 17.02.2016
- 59 DR. V. UJLAGENDRAN, Signed
University of Madras – Subject Expert (Nominated by Chairperson)
- 60 DR. T. RAJU Signed
University of Madras – Nomination-Academician
Representing SC/ST/WOMEN/MINORITY etc.,)
- PACHAIYAPPA'S COLLEGE FOR WOMEN, KANCHIPURAM**
- 61 DR. S. SUMATHI Signed
University of Madras – V.C. Nominee
- 62 DR. G. ANBALAGAN Signed

- University of Madras – V.C. Nominee 17.02.2016
- 63 DR. G. PRABHAGARAN Signed
University of Madras – Subject Expert (Nominated by
Chairperson)
- 64 DR. K. RAVICHANDRAN Signed
University of Madras – Subject Expert (Nominated by
Chairperson)
- 65 DR. K. PANDIAN Signed
University of Madras – Nomination-Academician
Representing SC/ST/WOMEN/MINORITY etc.,)
- 009 - CHEMISTRY**
....
- 005- - BOTANY**
- 93 DR. K.M. UMARAJAN (HOD) Botany
Pachaiyappa's College Chennai-30
- 94 TMT. T. VASANTHI (HOD) Botany
C.Kandaswami Naidu College for Women, Cuddalore
- PACHAIYAPPA'S COLLEGE, CHENNAI**
- 95 DR. M. RAVICHANDRAN
University of Madras – V.C. Nominee
- 96 DR. N. MATHIVANAN
University of Madras – V.C. Nominee
- 97 DR. V. LILLY Signed
University of Madras – Subject Expert (Nominated by
Chairperson)
- 98 DR. S. NATARAJAN Signed
University of Madras – Subject Expert (Nominated by 17.02.2016
Chairperson)
- 99 DR. B. VENUGOPAL Signed
University of Madras – Nomination-Academician

Representing SC/ST/WOMEN/MINORITY etc.,)

PACHAIYAPPA'S COLLEGE, CHENNAI

- 100 DR. S. SUMATHI *Signed*
University of Madras – V.C. Nominee
- 101 DR. V. LILLY *Signed*
University of Madras – V.C. Nominee
- 102 DR. C.V. CHITTIBABU *Signed*
University of Madras – Subject Expert (Nominated by 17.02.2016
Chairperson)
- 103 DR. S. NATARAJAN *Signed*
University of Madras – Subject Expert (Nominated by 17.02.2016
Chairperson)
- 104 DR. K. PANDIAN *Signed*
University of Madras – Nomination-Academician
Representing SC/ST/WOMEN/MINORITY etc.,)

C.KANDASWAMY NAIDU COLLEGE FOR WOMEN, CUDDALORE

- 105 DR. H. MUNAVARJAN *Signed*
Thiruvalluvar University – V.C. Nominee
- 106 MRS. KAVERIAMMAL *Signed*
Thiruvalluvar University – Subject Expert 17.02.2016

007 - ZOOLOGY

....

013 - ECONOMICS

....

002 - PHILOSOPHY

....

012 - HISTORY

....

003 – LIBRARIAN

51. The proceedings of the PTB for selection to the post of Asst. Professors – Botany – is set out hereunder as illustrative of the methodology adopted for selection by all the committees.

PACHAIYAPPA'S TRUST BOARD, CHENNAI-600 030

(Pachaiyappa's College Campus, Harington Road)

Proceedings of the meeting of the Combined Selection Committee constituted under provision of the UGC Regulations for recruitment to the post of Assistant Professors in Botany in respect of Pachaiyappa's Trust Board Art's and Science Colleges, held on 17.02.2016 at C.Kandaswami Naidu College for Men, Chennai.

Resn.No.5 Re: Aided Colleges – Pachaiyappa's Trust Board – Teaching staff – Various Faculties – Certain Vacant posts permitted to be filled up by DCE, Chennai – Direct Recruitment 2015-16- From out of Combined list of Candidates applied online basis and sponsored through employment exchange – **Assistant Professor in Botany** – Selection – Recommendation – Reg.

Order:

It has been brought to the notice of the Selection Committee that pertaining to **Assistant Professor in Botany** in respect of Pachaiyappa's Trust Board Colleges that there were following approved Vacancies:

VACANCY POSITION WITH COMMUNAL RESERVATION POINTS											
College wise Vacancies	Vacancies	GT (G)	GT (W)	BC (OBCM) (G)	BC (OBCM) (W)	MBC (DNC) (G)	MBC (DNC) (W)	SC (G)	SC (W)	SC (A) (W)	ST (G)
Botany – FACULTY CODE – 005	03										
Pachaiyappa's College, Chennai	01	0	0	1	0	0	0	0	0	0	0
C.Kandaswami Naidu College for Women,	01	0	0	0	0	1	0	0	0	0	0

Cuddalore											
Pachaiyappa's College for Women, Kanchipuram	01	0	0	0	0	0	0	0	1	0	0
TOTAL	03										

For the aforesaid vacancies the applications responded through online and list of candidate sponsored through employment exchange were combined and they were called for certificate verification and for Interview before the selection committee.

Faculty Code	Subjects	Vacancies	Number of valid Candidates applied online basis	Number of Candidates sponsored through Employment Exchange	Total
1	2	3	4	5	4 & 5
005	Botany	03	36	15	51

Out of the 51 candidates 23 Number of candidates turned up for interview and out of the candidates turned up and after scrutiny of their testimonials and screening them with regard to their eligibility with reference to UGC Regulations and Qualification prescribed there on only 23 Number of candidates found to be eligible during certificate verification and they were interviewed by the selection committee with reference to their merits, experience, ability and performance in the interview by adopting yardstick in awarding marks by the selection committee.

After the detailed scrutiny of the each and every candidates performance, this selection committee recommends that the under mentioned candidates were found suitable for appointment to the post of **Assistant Professor in Botany** and to be posted at Pachaiyappa's Trust Board Colleges as per Communal Reservation notified against their names.

A) SELECTED CANDIDATES

Sl			Spl.		College to
----	--	--	------	--	------------

<i>S. N o.</i>	<i>Name of the Candidates</i>	<i>Communal Reservation</i>	<i>Category Reservation</i>	<i>SUBJECT</i>	<i>which the candidates to be posted</i>
1	J.KAVINA	BC(OBCM)		Botany	PACHAIYAPPAS COLLEGE, CHENNAI
2	S.POOMPOZHILI	SC	(W)	Botany	PACHAIYAPAS COLLEGE FOR WOMEN, KANCHIPURAM
3	Dr.S.SRIDEVI appointed as Asst. Prof. Of Botany in obedience to Hon'ble High Court in WP.No.39264/2915 dt. 25/10/2016	MBC/DC		Botany	C.KANDASAMI NAIDU COLLEGE FOR WOMEN, CUDDALORE

B) RESERVE CANDIDATES

<i>Sl. N o.</i>	<i>Name of the Candidates</i>	<i>Communal Reservation</i>	<i>Spl. Category Reservation</i>	<i>SUBJECT</i>	<i>College to which the candidates to be posted</i>
1	D.BODHINI	BC(OBCM)		Botany	PACHAIYAPPAS COLLEGE, CHENNAI
2	K.THAMIZSELVI	SC	(W)	Botany	PACHAIYAPAS COLLEGE FOR WOMEN, KANCHIPURAM
3		MBC/DC		Botany	

A) University Selection Committee Members		
1.	DR. M. RAVICHANDRAN University of Madras – V.C. Nominee	
2.	DR. N. MATHIVANAN University of Madras – V.C. Nominee	
3.	DR. V. LILLY	Signed

	<i>University of Madras – Subject Expert (Nominated by Chairperson)</i>	
4.	<i>DR. S. NATARAJAN (University of Madras – Subject Expert (Nominated by Chairperson))</i>	<i>Signed 17.02.2016</i>
5.	<i>DR. B. VENUGOPAL University of Madras-Nomination- Academician Representing SC/ST/ WOMEN/MINORITY etc.,</i>	<i>Signed</i>
6.	<i>DR. S. SUMATHI University of Madras – V.C. Nominee</i>	<i>Signed</i>
7.	<i>DR. V. LILLY University of Madras – V.C. Nominee</i>	<i>Signed</i>
8.	<i>DR. C.V. CHITTIBABU University of Madras-Subject Expert (Nominated by Chairperson)</i>	<i>Signed 17.02.2016</i>
9.	<i>DR. S. NATARAJAN University of Madras – Subject Expert (Nominated by Chairperson)</i>	<i>Signed 17.02.2016</i>
10.	<i>DR. K. PANDIAN University of Madras-Nomination- Academician Representing SC/ST/ WOMEN/MINORITY etc.,</i>	<i>Signed</i>
11.	<i>DR. H. MUNAVARJAN Thiruvalluvar University – V.C. Nominee</i>	<i>Signed 17.02.2016</i>
12.	<i>MRS. KAVERIAMMAL Thiruvalluvar University – Subject Expert</i>	<i>Signed 17.02.2016</i>

B) HOD of the Trust Colleges

1.	<i>DR. K.M. UMARAJAN (HOD) Botany Pachaiyappa's College Chennai-30</i>	
2.	<i>TMT. T. VASANTHI (HOD) Botany C.Kandaswami Naidu College for Women Cuddalore</i>	

C) Principal of the Trust Colleges

1.	<i>DR. P. GAJIVARADHAN (Principal) Pachaiyappa's College, Chennai</i>	<i>Signed</i>
2.	<i>DR. R. SUBBALAKSHMI (Principal)</i>	<i>Signed</i>

	<i>Pachaiyappa's College for Women, Kanchipuram</i>	<i>17.02.2016</i>
3.	<i>DR. MALLIGA CHANDIRAN (Principal)</i>	<i>Signed</i>
	<i>C.Kandaswami Naidu College for Women, Cuddalore</i>	<i>17.02.2016</i>

D) Chairperson of the Governing Body		
1.	<i>Thiru. S. JAYACHANDRAN</i> <i>President / Chairman</i> <i>Pachaiyappa's Trust Board, Chennai-30</i>	-

52. The Board has also circulated the records of the selection process (three documents). I extract a format of the parameters adopted for selection for the sake of illustration, duly signed by the members of the selection Committee. This is relevant to determine the veracity of the procedure followed by the Board in the case of the petitioners. The signatures appended at the end of the proceedings of the selection committees also attests to the fact that the numbers of attendees is in excess of the required quorum and comprises of sufficient subject experts.

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PACHAIYAPPA'S TRUST BOARD, CHENNAI -30 – SELECTION PROCESS FOR THE POST OF TEACHING STAFF -2015-16

Prescribed Qualification		PG/SLET/NET/Ph.D.,		Date: 17.02.2016 – Session – A.N. No of Candidates: 69													
S e r i a l N u m b e r	C a l l e t e r N u m b e r	PHYS – BOARD -1		MERITS			Experience	ABILITY								Interview	
		Online Registration Number	Name of the Candidate	Prescribed Qualification	Additional Qualification		Max.15 marks	Teaching Learning and Evaluation Activities				Maximum 5 marks (Col.15, 16 & 17)					
				Maximum - 9 Marks (Col.5,6 & 7)	Max -2 Marks	Max -2 marks			Maximum 7 marks (Col.11,2,13 & 14)								
				P G A N D S L E T /N E T (5 m a r k s)	P G W i t h M P H I L /S E L T /N E T (6 m a r k s)	P G W i t h P h D (9 m a r k s)	A n y o t h e r U G (1 M a r k s) P G (2 M a r k s) o t h e r t h a n r e l e v a n t S u b j e c t (M a x i m u m 2 m a r k s)	P a s s e d b y o t h e r c o u r s e c o n d u c t e d b y U G C a p a r t f r o m S L E T /N E T (E a c h 1 m a r k M a x i m u m 2 m a r k s)	E x p e r i e n c e (e a c h y e a r 2 m a r k s - M a x i m u m (15 m a r k s)	T e a c h i n g R e l a t e d a c t i v i t i e s (3 m a r k s)	D o m a i n K n o w l e d g e (2 m a r k s)	P a r t i c i p a t i o n i n E x a m i n a t i o n a n d E v a l u a t i o n (1 m a r k)	C o n t r i b u t i o n t o i n n o v a t e t e a c h i n g n e w c o u r s e e t c (1 M a r k)	N S S /N C /C U L T U R A L /A D V I C E M E N T & C O U N S E L I N G (M a x i m u m 2 m a r k s)	C o n t r i b u t i o n t o c o r p o r a t e l i f e a n d m a n a g e m e n t - D e p t /I n s t i /A c a d e m i c /A d m i n i s t r a t i v e /C o m m i t t e e s a n d r e s p o n s i b i l i t i e s - 2 m a r k s)	P r o f e s s i o n a l d e v e l o p m e n t a c t i v i t i e s /s e m i n a r s /c o n f e r e n c e s /t r a i n i n g c o u r s e /t a l k s /l e c t u r e s /a r t i c l e s - (1 m a r k)	I n t e r v i e w (10 M a r k s)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
76	076	1177267512	SARAVANAN L	-	-	9	-	-	1	1	1	1	-	-	-	-	6
77	077	136997809	SARAVANAN R	-	-	9	-	-	2	1	1	1	-	-	-	-	5
78	078	1177693971	SATHEESH K	-	-	-	-	-	ABSENT	-	-	-	-	-	-	-	-

53. The following points thus reveal themselves clearly to me:

(i) Selection has been qua subject (ii) this method of selection is valid, seeing as the PTB is the common Educational Agency of all colleges that constitute one unit. (iii) The Committee constituted contains, in all cases, more members than the required quorum (iv) The committee, in all cases, comprises of adequate numbers of subject experts. In my considered view, the procedure adopted is in line with the UGC Regulations and passes muster. (v) The view adopted by the University is hyper-technical and ignores the presence of some members of the sitting committee. This is clearly incorrect since the process of selection has been qua subject and not qua college. (vi) Then again, an expert in physics or botany is a subject expert, whosoever the person is, and irrespective of the college he/she has been nominated to. Obviously, the contents of the subject do not change from college to college but remains the same. This would suffice for full compliance with the Regulations.

54. In fine, and having perused the details and materials submitted carefully I am of the view that there is no infirmity in the process of selection of the petitioners as faculty and the impugned orders thus fail.

55. After conclusion of the hearings spanning several sessions, written submissions were filed by the parties. In the written submissions filed, the Trust has raised some concerns about the appointments made for various other posts in the colleges of the PTB as well. No arguments or even submissions were ever advanced along these lines during the hearings before me and it has been left to me to peruse these additional points and draw such inferences as I may. The matters were listed

on several occasions to ensure that the parties were given full time and liberty to made complete and comprehensive submissions. They have chosen to restrict their pursuit of the matters only to the pleadings in the writ petitions and detailed oral submissions advanced and I will, similarly, not traverse beyond this scope. I also reiterate that Mr.Sundararajan appearing for the PTB has also repeatedly emphasized to the Court that there is nothing untoward in the appointments other than the two flaws in procedure pointed out in their counter and pursued in arguments. I leave this matter, at that.

56. One more thing. The petitioners have, admittedly, assumed positions on various dates between 25.02.2016 and 03.03.2016. The missive from the University in the form of the present proceedings holding their appointments to be invalid has been issued only on 18.09.2017 after the petitioners' have rendered service for 18 months. This is an unfortunate situation. Committed and qualified teachers are scarce resources and becoming scarcer by the day. Without question, the Regulations of a Regulatory body such as the UGC have to be followed and they are seen to have been followed in the present cases. However, even assuming that the appointments were invalid, there is no justification or explanation available for the elapse of eighteen (18) months for the UGC to arrive at a decision regarding their appointments. In the present cases, the services of the petitioners has not been found to be lacking or inadequate. There is no such allegation in the counters. Even otherwise, there are detailed terms and conditions in the appointment letters issued to the candidates and if at all there are lacunae or shortfall in the merits of any specific candidates, the Board will take appropriate action in specific cases to ensure

that merit and quality of the faculty is maintained at all times. Even for this reason, in addition to the reasoning in the earlier paragraphs of this order, I find the impugned proceedings to be unsustainable.

57. Impugned orders dated 18.09.2017 holding the appointments of the petitioners as invalid are set aside. Necessary orders approving the appointments shall be passed by the respondents forthwith, and at any rate within a period of four (4) weeks from date of receipt of this order, simultaneous with payments of service emoluments due to the petitioners. The writ petitions are allowed in the above terms. Consequently miscellaneous petitions are closed. No costs.

24.04.2019

Speaking order
Index: Yes
Internet: Yes
ska/sl

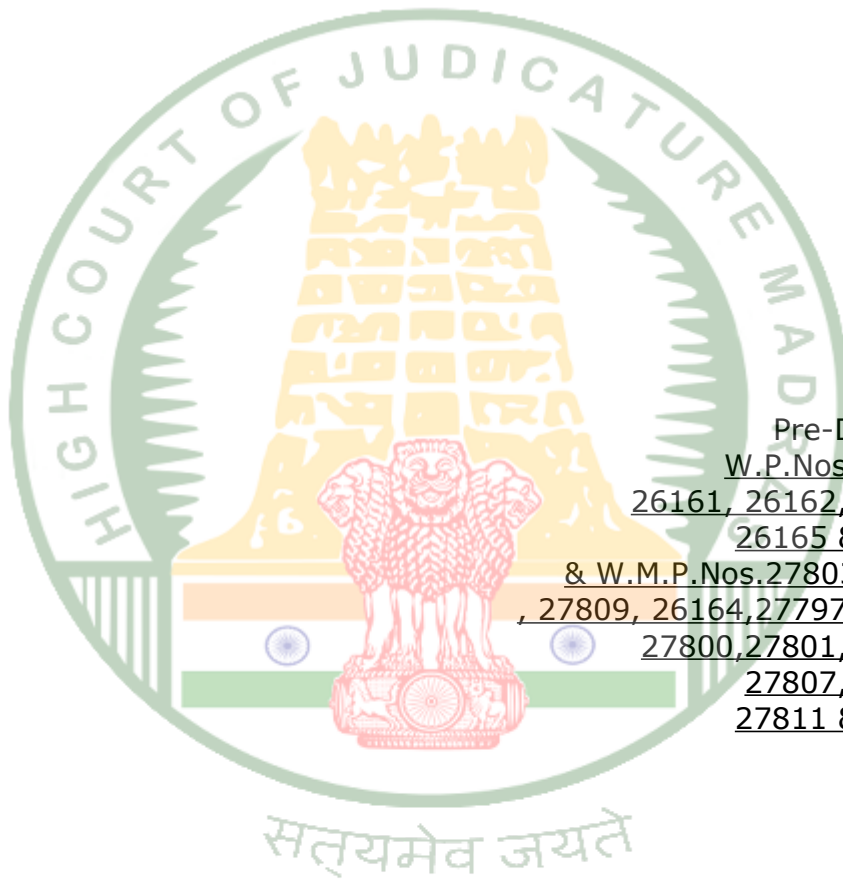
To

1.The University Grants Commission
Rep.by its Member Secretary
Bahadur Shah Zafar Marg
New Delhi 110 002

2.The Registrar
University of Madras
Centenary Building
Chepauk
Chennai 600 005

DR.ANITA SUMANTH. J,

Ska



Pre-Delivery Order in
W.P.Nos.26159, 26160,
26161, 26162, 26163, 26164,
26165 & 26166 of 2017
& W.M.P.Nos.27803, 27804, 27805
, 27809, 26164,27797, 27798, 27799,
27800,27801, 27802, 27806,
27807, 27808, 27810,
27811 & 27812 of 2017

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24.04.2019