

PROF. NARENDRA SINGH BHANDARI

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v.

RAVINDRA JUGRAN AND OTHERS

(Civil Appeal No. 8184 of 2022)

NOVEMBER 10, 2022

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[M. R. SHAH AND M. M. SUNDRESH, JJ.]

University Grants Commission Regulations, 2018 – Regulation 7.3.0 – Soban Singh Jeena University Act, 2019 – Ss. 10, 10 (3) – Constitution of India – Art. 319 – Appointment of Vice Chancellor in a University – Eligibility for appointment – Requirement of having minimum teaching experience – Due process for appointment – Appellant herein was appointed as a Professor in Soban Singh Jeena University and worked as such for a period of 8 years and 5 months – Then he was appointed as Member, Uttarakhand Public Service Commission – On 13th August 2020, he was appointed as Vice-Chancellor of the University – Said appointment was challenged before the High Court, inter alia, on the grounds that at the time when he was appointed as Vice-Chancellor, he was not having the requisite experience of minimum 10 years as Professor, which was required as per the ‘UGC Regulations, 2018’, which were adopted by the State Government – High court quashed the appointment of the appellant herein, finding the appointment process devoid of due process prescribed by UGC Regulations, 2018 – Whether the appointment of the appellant as Vice-Chancellor of the University was legal and valid and whether it was after following the due procedure, as required – Held: Under Section 10 of the University Act, 2019 and Regulation 7.3.0 of the UGC Regulations, 2018, a person to be appointed as Vice-Chancellor shall have a minimum of 10 years’ teaching experience as Professor in a University or ten years of experience in a reputed research and/or academic administrative organisation with proof of having demonstrated academic leadership – Merely because his lien was continued on the post of a Professor, it cannot be said that he continued to teach and/or he was having the teaching experience during the period of lien – Supervising the Ph.D. scholars cannot be said to be having a teaching experience as a Professor in the University, which is the requirement as per the UGC Regulations – Further, the selection

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- A *for the post of Vice-Chancellor should be through proper identification by a panel of 3-5 persons by a Search-cum-Selection Committee and the Vice-Chancellor shall be appointed out of the panel of the names recommended by the Search-cum-Selection Committee – Appointment of the appellant as Vice-Chancellor cannot be said to be as per the requirement of the University Act r/w Regulation 7.3.0 of the UGC Regulations, 2018 as it is an admitted position that no advertisement was issued before appointing the appellant as Vice-Chancellor, name of the appellant was not recommended by the Search-cum-Selection Committee, selection of the appellant for the post of Vice-Chancellor was not by a panel of persons by Search-cum-Selection Committee and therefore he was not appointed as Vice-Chancellor out of the panel of the names recommended by Search-cum-Selection Committee – Only one name was placed before the State Government/the Chief Minister for approval – Under the circumstances, the appointment of the appellant as Vice-chancellor of the University was just contrary to Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018.*

Dismissing the appeal, the Court

HELD: 1.1 On conjoint reading of Section 10 of the

- E **University Act, 2019 and Regulation 7.3.0 of the UGC Regulations, 2018, a person to be appointed as Vice-Chancellor shall have a minimum of 10 years' teaching experience as Professor in a University or ten years of experience in a reputed research and/or academic administrative organisation with proof of having demonstrated academic leadership. On conjoint reading of the aforesaid provisions, the selection for the post of Vice-Chancellor should be through proper identification by a panel of 3-5 persons by a Search-cum-Selection Committee and the Vice-Chancellor shall be appointed out of the panel of the names recommended by the Search-cum-Selection Committee. In the present case, the appointment of the appellant as Vice-Chancellor cannot be said to be as per the requirement of Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018. It is an admitted position that no advertisement was issued before appointing the appellant as Vice-Chancellor. The name of the appellant was not recommended by the Search-cum-Selection**
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Committee. The selection of the appellant for the post of Vice-Chancellor was not by a panel of persons by Search-cum-Selection Committee and therefore he was not appointed as Vice-Chancellor out of the panel of the names recommended by Search-cum-Selection Committee. [Para 10][558-B-E] A

1.2 Proviso to Section 10(1) of the University Act, 2019, does not provide that with respect to appointment of first Vice-Chancellor of the University, the other requirements of selection and appointment of Vice-Chancellor as provided under Section 10 are not required to be followed and/or adhered to. Even while making the appointment of the first Vice-Chancellor of the University, the procedure required for selection and appointment of Vice-Chancellor is not required to be given go-bye. If the submission on behalf of the appellant, the State and the University is accepted, in that case, the other provisions of Section 10 shall become otiose and/or redundant. The post of Vice-Chancellor of the University is a very important post and therefore the most meritorious person should be appointed as Vice-Chancellor of the University from and amongst the other eligible meritorious candidates out of the panel of the names recommended by the Search-cum-Selection Committee. [Paras 11 & 12][558-F-H; 559-A-C] B

1.3 A Vice-Chancellor should have a minimum teaching experience of 10 years as a Professor in the University and his name should be recommended by the Search-cum-Selection Committee and the appointment of the Vice-Chancellor is to be made out of the panel recommended by the Search-cum-Selection Committee. As per Section 10(3) of the University Act, 2019, based on the qualification and eligibility prescribed in the regulations of the University Grant Commission, the committee shall prepare a panel of three persons who shall be suitable for the post of the Vice-Chancellor. Therefore, even as per Section 10 of the University Act, 2019, the qualification and eligibility prescribed in the UGC Regulations shall have to be considered by the Search-cum-Selection Committee. [Para 13][563-A-C] C

1.4 The appellant rendered service as a professor for the period between 2009 to 2017 (admitted fact that teaching D

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- A experience as a Professor is 8 years and 5 months) till he was appointed as member of the Uttarakhand Public Service Commission on 7th October 2017. He continued as a member of the Public Service Commission till 13th August 2020 when he was appointed as Vice-Chancellor of the University. Merely because his lien was continued on the post of a Professor, it cannot be said that he continued to teach and/or he was having the teaching experience during the period of lien. Even considering Article 319 of the Constitution of India, while working as a member of the Public Service Commission, appellant could not have rendered any other work on any other post. Therefore, the contention on behalf of the appellant that the period spent by the appellant as a member of the Public Service Commission should be added to his teaching experience, holding lien on the substantive post, cannot be accepted. Merely because such lien is held, the period of lien, by no stretch of imagination, can be treated and/or considered as teaching experience. [Para 14][563-D-H]

1.5 From the note sheet dated 5th August 2020, it appears that only one name was placed before the State Government/the Chief Minister for approval. Under the circumstances, the appointment of the appellant as Vice-chancellor of the University was just contrary to Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018. [Para 16][564-D-E]

- F 1.6 As per Regulation 7.3.0 of the UGC Regulations, 2018 and even as per Section 10 of the University Act, 2019, the selection for the post of Vice-Chancellor should be through proper identification by a panel of 3-5 persons by Search-cum-Selection Committee and the members of such Search-cum-Selection Committee shall be the persons of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the Search Committee shall give proper weightage to the academic excellence etc. and thereafter the Visitor/Chancellor shall appoint the Vice-Chancellor out of the panel of the names recommended by the Search-cum-Selection Committee. The reason behind this seems to be that the person who is ultimately
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selected and appointed as Vice-Chancellor, his case is compared with other eligible meritorious candidates who were part of the panel recommended by the Search Committee. In the present case, such a procedure has not been followed at all. The merit of the appellant has not at all been compared with other eligible meritorious persons who may be more meritorious than the appellant. [Para 17][565-A-D] A
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1.7 The High Court has rightly quashed and set aside the appointment of the appellant as Vice-Chancellor of the University. The appointment of the appellant as Vice-Chancellor of the University is just contrary to Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018, which has been specifically adopted by the State Government. Therefore, this is a fit case to issue a writ of *quo warranto*, which is rightly issued by the High Court. The appointment of the appellant as Vice-Chancellor of the University is held to be illegal and *de hors* the statutory requirements under Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018. The present appeal fails and deserves to be dismissed and is accordingly dismissed [Para 18, 19 & 20][565-E-F, G; 566-A] C
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Gambhir dan K. Gadhwvi v. State of Gujarat (2022) 5 SCC 179; State of West Bengal v. Anindya Sundar Das & Others 2022 SCC Online SC 1382; Dr. Rajasree M.S. and Others 2022 SCC Online SC 1473 – referred to. E

Case Law Reference

(2022) 5 SCC 179 referred to Para 3.5 F
CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8184 of 2022.

From the Judgment and Order dated 10.11.2021 of the High Court of Uttarakhand at Nainital in Writ Petition (PIL) No. 190 of 2020.

P. S. Patwaria, Sr. Adv., Ms. Harshika Verma, Bharat Singh, Dhruv Gupta, Ashish Pandey, Kshtiz Singh, Kushagra Raghuvanshi, Mahipal Khagnwal, Amit Pawan, Advs. for the Appellant. G

Sanjay Parikh, Sr. Adv., Ms. Srishti Agnihotri, Satwik Parikh, Ms. Sanjana Grace Thomas, Atul Sharma, Aviral Saxena, Jatinder Kumar H

- A Bhatia, Param Kumar Mishra, Harmeet Singh Ruprah, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

- B 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 10.11.2021 passed by the High Court of Uttarakhand at Nainital in Writ Petition No. 190/2020, by which the High Court has allowed the said writ petition preferred by respondent No.1 herein and has quashed and set aside the appointment of the appellant herein – original respondent No.5 as the Vice-Chancellor of Soban Singh Jeena University (hereinafter referred to as the ‘University’), original respondent No.5 – Vice-Chancellor of the said University has preferred the present appeal.
2. That the appellant herein was appointed as Professor and worked as such for the period between 23.5.2009 to 7.10.2017 till he
- D was appointed as Member of the Uttarakhand Public Service Commission. That thereafter he was appointed by the State Government as Vice-Chancellor of the University by order dated 11.08.2020. He assumed the charge as Vice-Chancellor on 13.08.2020. The appointment of the appellant was challenged before the High Court by way of present
- E writ petition, *inter alia*, on the ground that at the time when he was appointed as Vice-Chancellor, i.e., on 11.08.2020, he was not having the requisite experience of minimum 10 years as Professor, which was required as per the University Grants Commission Regulations, 2018 (for short, ‘UGC Regulations, 2018’) which were adopted by the State Government.
- F 2.1 It was also the case on behalf of the original writ petitioner that even otherwise his appointment as Vice-Chancellor was illegal inasmuch as his name was not recommended by the Search Committee and only one name was placed before the Chief Minister and thereafter without any advertisement he was selected and appointed as Vice-
- G Chancellor.
- 2.2 The said writ petition was opposed by the appellant contending, *inter alia*, that as per the Soban Singh Jeena University Act, 2019 (hereinafter referred to as the ‘University Act, 2019’), there was no such requirement of having minimum 10 years’ experience as Professor.
- H It was submitted that at the relevant time, the length of service as

Professor as on 01.11.2017 was more than 8 years and 5 months. It was submitted that while he continued as Member of the Uttarakhand Public Service Commission, he was on long leave as Professor and his lien on the post of Professor was continued. It was also the case on behalf of the appellant that while serving as Member of the Public Service Commission, he was supervising PhD scholars and therefore the same was required to be counted for considering the minimum 10 years' experience. It was also the case on behalf of the appellant that he was found to be meritorious and looking to his academic career the merit was not compromised. By the impugned judgment and order, the High Court has allowed the said writ petition and has quashed and set aside the appointment of the appellant as Vice-Chancellor of the University by holding that as the appointment of the appellant as Vice-Chancellor was just contrary to Regulation 7.3.0 of the UGC Regulations, 2018 which prescribes the eligibility requirements for appointment as Vice-Chancellor. While setting aside the appointment of the appellant as Vice-Chancellor of the University, the High Court has observed and held that even otherwise the appellant was not having the minimum 10 years' experience as Professor, even as required as per Section 10(1) of the University Act, 2019.

2.3 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, quashing, and setting aside the appointment of the appellant as Vice-Chancellor of the University, original respondent No.5 – Vice-Chancellor of the University has preferred the present appeal.

3. We have heard Shri P.S. Patwalia, learned Senior Advocate appearing on behalf of the appellant – Vice-Chancellor of the University, Shri Sanjay Parikh, learned Senior Advocate appearing on behalf of respondent No.1 – original writ petitioner, Shri Atul Sharma, learned Advocate for the State, Shri Jatinder Kumar Bhatia, learned Advocate appearing on behalf of the Uttarakhand Public Service Commission and Shri Harmeet Singh Ruprah, learned Advocate appearing for the University.

3.1 Shri Patwalia, learned counsel appearing on behalf of the appellant and learned counsel appearing on behalf of the State as well as University have vehemently submitted that Regulation 7.3.0 of the UGC Regulations, 2018 shall not be applicable. It is submitted that UGC Regulations, 2018 were adopted by the State Government, subject to the

- A modifications. It is submitted that Regulation 7.3.0 therefore was adopted by the State, subject to modification. It is submitted that therefore there was no requirement of having minimum 10 years' experience as a professor for appointment as Vice-Chancellor of the University.
- 3.2 It is further submitted that as it was a case of appointment of
- B the first Vice-Chancellor of the University, as per proviso to Section 10(1) of the University Act, 2019, it was open and permissible for the State Government to appoint a Vice-Chancellor of his choice and as it was a case of appointment of first Vice-chancellor, it was not required to have the name recommended by the Search Committee.
- C 3.3 Shri Patwalia, learned Senior Advocate has further submitted that even otherwise it cannot be said that the appellant was not having requisite minimum 10 years' experience as a professor. It is submitted that as on 1.11.2017, the appellant had rendered 8 years and 5 months service as a professor. That thereafter when he was appointed as a member of the Public Service Commission, he was on long leave and his lien continued on the post of professor on which he was working earlier. It is submitted that even as a member of the Public Service Commission, he was supervising the PhD scholars. It is submitted that therefore it cannot be said that the appellant was not having the requisite minimum 10 years' experience as a professor.
- E 3.4 It is further submitted by Shri Patwalia, learned Senior Advocate appearing on behalf of the appellant that the appellant was appointed as Vice-Chancellor after complete satisfaction of the State Government regarding the eligibility. It is submitted that the appellant is a distinguished person in the field of the study of the University or from
- F equivalent position in Administration. It is submitted that all through his academic years from matriculation to masters he stood first throughout and he is an awardee of PhD. Degree from prestigious Indian Institute of Technology, New Delhi. He had research and publication in national and international journals, books, internship participation in academic seminars and conferences. It is submitted that therefore when, in exercise
- G of powers under Section 10(1) of the University Act, 2019 and considering his academic career and as he was found to be most meritorious and being the appointment of first Vice-Chancellor, the appellant was rightly appointed as Vice-Chancellor of the University by the State Government.
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3.5 Now so far as the reliance placed upon the decisions of this Court in the case of *Gambhirdan K. Gadhwani v. State of Gujarat, (2022) 5 SCC 179* as well as the recent decision of this Court in the case of *State of West Bengal v. Anindya Sundar Das & Others, 2022 SCC Online SC 1382* is concerned, it is submitted by the learned counsel appearing on behalf of the appellant that the said decisions shall not be applicable to the facts of the case on hand, inasmuch as those were not the cases of appointment of first Vice-Chancellor. It is submitted that in the present case, it is the case of the appointment of the first Vice-Chancellor of the University and therefore proviso to Section 10(1) of the University Act, 2019 shall be applicable, which permits/authorises the State Government to make the appointment of Vice-Chancellor.

4. The present appeal is vehemently opposed by Shri Sanjay Parikh, learned Senior Advocate appearing on behalf of the original writ petitioner. In support of the impugned judgment and order passed by the High Court, quashing and setting aside the appointment of the appellant as Vice-Chancellor of the University, Shri Sanjay Parikh, learned counsel has made the following submissions:

- i) that the UGC Regulations, 2018 were adopted by the State Government and Regulation 7.3.0 prescribes that for the post of Vice-Chancellor, a person must have minimum 10 years' experience as a professor in any University and the appointment of the Vice-Chancellor of the University shall be by the Search Committee which will submit the panel of 3-5 persons and thereafter amongst those, appointment of the Vice-Chancellor can be made;
- ii) in the present case, the appellant admittedly was not having the requisite minimum 10 years' teaching experience as Professor;
- iii) service rendered as Member of the Uttarakhand Public Service Commission cannot be considered for the purpose of experience as a professor because as a Member of the Public Service Commission he was not required to teach and therefore the service rendered as a Member of the Public Service Commission cannot be said to be having the experience in teaching;
- iv) having a lien on the post of professor while serving as a member of the Public Service Commission cannot be said to be having teaching experience;

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- A v) proviso to Section 10(1) of the University Act, 2019 shall not be applicable. It is submitted that proviso to Section 10(1) of the University Act, 2019 does not provide that the requirement of Section 10 is to be given go-bye. Proviso to Section 10(1) of the University Act, 2019 does not give any unfettered powers to the State Government to appoint Vice-Chancellor of the University *de hors* Section 10 of the University Act, 2019 and UGC Regulations, 2018, which were adopted by the State Government;
- B vi) UGC Regulations, 2018 including Regulation 7.3.0 for appointment of the Vice-Chancellor have been specifically adopted by the State Government except the requirement of consideration of the Search Committee;
- C vii) neither there was any advertisement given nor the applications were invited from eligible and meritorious candidates nor the name of the appellant was recommended by the Search Committee as the Search Committee was not constituted at all and therefore the name of the appellant was not recommended by the Search Committee;
- D viii) in view of Article 319 of the Constitution of India, the appellant could not have worked on any other post in any other institution while continuing as a member of the Public Service Commission and therefore the submission on behalf of the appellant that while the appellant was a member of the Public Service Commission, his lien was continued and/or that he was supervising the Ph.D. scholars and therefore the period during which he continued as a member of the Public Service Commission may be treated for the purpose of teaching experience cannot be accepted.
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- G 4.1 Shri Parikh, learned Senior Advocate appearing on behalf of the original writ petitioner has heavily relied upon the decisions of this Court in the case of *Gambhirdan K. Gadhvi (supra)* and *Anindya Sundar Das (supra)* and a recent decision of this Court in the case of *Professor (Dr.) Sreejith P.S. v. Dr. Rajasree M.S. and Others, 2022 SCC Online SC 1473* in support of his submission that the State Government is bound by the UGC Regulations, 2018 and that if there is any conflict between the State University Act and the UGC Regulations, 2018 to the extent the provisions of the State University Act are repugnant, UGC Regulations, 2018 shall prevail.
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4.2 Making the above submissions and relying upon the aforesaid decisions, it is prayed to dismiss the present appeal. A

5. At this stage, Shri P.S. Patwaria, learned Senior Advocate appearing on behalf of the appellant – Vice-Chancellor of the University has made an alternative submission that in case this Court is of the opinion that the impugned judgment and order passed by the High Court quashing and setting aside the appointment of the appellant as Vice-Chancellor of the University is not required to be interfered with, in that case, the appellant proposes to resign and therefore he may be permitted to resign as Vice-Chancellor of the University. B

6. We have heard learned counsel for the respective parties at length. C

7. The short question which is posed for consideration of this Court is, “whether the appointment of the appellant as Vice-Chancellor of the University was legal and valid and whether it was after following the due procedure, as required”? D

8. While considering the aforesaid issue/question, the relevant provisions of the University Act, 2019 and UGC Regulations, 2018 are required to be referred to, which are as under:

Section 10 of the State University Act, 2019:

“10. (1) The Vice-Chancellor shall be appointed by the Chancellor with the concurrence of the State Government from among the distinguished persons in the field of study of the University or from equivalent position in Administration, Industry or Research Institute whose names are submitted to him by search committee constituted by the State Government in accordance with the provisions of sub-section (2). E F

Provided that first Vice-Chancellor of University Shall be appointed by State Government and Shall hold the Post for duration of three years.

(2) The committee referred in sub-section (1) shall consist of the following persons: G

(a) One person nominated by the Chancellor.

(b) One person nominated by the University Grants Commission (U.G.C.). H

- A (c) The Secretary/Principal Secretary of the State Government higher education department, who shall be the convener of the committee.
- (3) Based on the qualification and eligibility prescribe in the regulations of the University Grant Commission, the committee shall prepare a panel of three persons who shall be suitable for the post of the Vice-Chancellor. The committee while presenting the nominations to the Chancellor, shall forward a brief descriptive note of every nominee's academic background/ qualifications and any specializations, but shall not show any preferences.
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Regulation 7.3.0 of the UGC Regulations, 2018:

- D i. A person possessing the highest level of competence, integrity, morals and institutional commitment is to be appointed as Vice-Chancellor. The person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of ten years' of experience as Professor in a University or ten years' of experience in a reputed research and / or academic administrative organisation with proof of having demonstrated academic leadership.
- E ii. The selection for the post of Vice-Chancellor should be through proper identification by a Panel of 3-5 persons by a Search-cum-Selection-Committee, through a public notification or nomination or a talent search process or a combination thereof. The members of such Search-cum-Selection Committee shall be persons' of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the Search cum-Selection Committee shall give proper weightage to the academic excellence, exposure to the higher education system in the country and abroad, and adequate experience in academic and administrative governance, to be given in writing along with the panel to be submitted to the Visitor/Chancellor. One member of the Search cum Selection Committee shall be nominated by the Chairman, University Grants Commission, for selection of Vice Chancellors of State, Private and Deemed to be Universities.
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- H iii. The Visitor/Chancellor shall appoint the Vice Chancellor out of the Panel of names recommended by the Search-cum-Selection Committee.

iv. The term of office of the Vice-Chancellor shall form part of the service period of the incumbent making him/her eligible for all service related benefits. A

9. It is not in dispute that UGC Regulations, 2018 have been adopted by the State Government *vide GO* dated 6.9.2019 and Regulation 7.3.0 of Regulations, 2018 has been specifically adopted with a modification that the process of selection of Vice-Chancellor needs to be adopted but selection committee and search committee would be constituted as per the prevalent provisions of the Act at that point of time. Meaning thereby, the selection committee and search committee would have to be constituted as per the University Act, 2019 (Section 10). Otherwise, the eligibility criteria provided under Regulation 7.3.0 of the UGC Regulations, 2018 shall be applicable which, as observed hereinabove, has been adopted by the State Government *vide GO* dated 6.9.2019. B

9.1 On a fair reading of Section 10 of the University Act, 2019 and Regulation 7.3.0 of the UGC Regulations, 2018, a person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of 10 years' teaching experience as Professor in a University. As per Section 10(1), the Vice-Chancellor shall be appointed by the Chancellor with the concurrence of the State Government from among the distinguished persons in the field of study of the University or from equivalent position in Administration, industry or Research Institute **whose names are submitted to him by search committee constituted by the State Government in accordance with the provisions of sub-section (2).** Section 10(2) of the University Act, 2019 provides for constitution of the search committee. Section 10(3) of the University Act, 2019 provides that based on the qualification and eligibility prescribe in the regulations of the University Grant Commission, the committee shall prepare a panel of three persons who shall be suitable for the post of the Vice-Chancellor. It further provides that the committee while presenting the nominations to the Chancellor, is required to forward a brief descriptive note of every nominee's academic background/ qualifications and any specializations, but shall not show any preferences. C

9.2 Regulation 7.3.0 of the UGC Regulations, 2018 prescribes that the person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of ten years' teaching experience as Professor in a University. As per UGC Regulations, 2018, the selection for the post of Vice-Chancellor should be through proper D

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- A identification by a panel of 3-5 persons by a Search-cum-Selection Committee, through a public notification or nomination or a talent search process or a combination thereof. Regulation 7.3.(ii) provides for constitution of a Search Committee. As per Regulation 7.3.(iii), the Visitor/ Chancellor shall appoint the Vice-Chancellor out of the panel of names recommended by the Search-cum-Selection Committee.
- B 10. Thus, on conjoint reading of Section 10 of the University Act, 2019 and Regulation 7.3.0 of the UGC Regulations, 2018, a person to be appointed as Vice-Chancellor shall have a minimum of 10 years' teaching experience as Professor in a University or ten years of experience in a reputed research and/or academic administrative organisation with proof of having demonstrated academic leadership. On conjoint reading of the aforesaid provisions, the selection for the post of Vice-Chancellor should be through proper identification by a panel of 3-5 persons by a Search-cum-Selection Committee and the Vice-Chancellor shall be appointed out of the panel of the names recommended by the Search-cum-Selection Committee.
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- D Committee. In the present case, the appointment of the appellant as Vice-Chancellor cannot be said to be as per the requirement of Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018. It is an admitted position that no advertisement was issued before appointing the appellant as Vice-Chancellor. The name of the appellant was not recommended by the Search-cum-Selection Committee. The selection of the appellant for the post of Vice-Chancellor was not by a panel of persons by Search-cum-Selection Committee and therefore he was not appointed as Vice-Chancellor out of the panel of the names recommended by Search-cum-Selection Committee.
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- F 11. It is the case on behalf of the appellant and the University and the State that as it was a case of appointment of first Vice-Chancellor and therefore considering proviso to Section 10(1) of the University Act, 2019, the procedure as required for appointment as Vice-Chancellor as provided under Section 10 is not required to be adhered to and it is open for the State Government to appoint the first Vice-Chancellor of the
- G University. The aforesaid has no substance. On a fair reading of proviso to Section 10(1) of the University Act, 2019, it does not provide that with respect to appointment of first Vice-Chancellor of the University, the other requirements of selection and appointment of Vice-Chancellor as provided under Section 10 are not required to be followed and/or adhered to. Even while making the appointment of the first Vice-Chancellor of
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the University, the procedure required for selection and appointment of Vice-Chancellor is not required to be given go-bye. If the submission on behalf of the appellant, the State and the University is accepted, in that case, the other provisions of Section 10 shall become otiose and/or redundant. A

12. At this stage, it is required to be noted that the post of Vice-Chancellor of the University, as observed by this Court in catena of decisions, more particularly in the cases of *Gambhir dan K. Gadhvi (supra)*; *Anindya Sundar Das (supra)*; and *Dr. Rajasree M.S. (supra)*, is a very important post and therefore the most meritorious person should be appointed as Vice-Chancellor of the University from and amongst the other eligible meritorious candidates out of the panel of the names recommended by the Search-cum-Selection Committee. On the importance of the post of Vice-Chancellor, this Court in the case of *Gambhir dan K. Gadhvi (supra)*, in paragraphs 53 to 56, has observed as under: B

53. It is to be noted that the post of Vice-Chancellor of the university is a very important post so far as the university is concerned. Being a leader and head of the institution, the Vice-Chancellor of the university has to play very important role. While academic qualifications, administrative experience, research credentials and track record could be considered as basic eligibility requirements, the greater qualities of a Vice-Chancellor would be one who is a true leader and a passionate visionary. A Vice-Chancellor needs to be one who understands and handles the affairs of the university as ethical business and maintains a pellucidity in his conduct towards the betterment of the university as well as the students therein. A Vice-Chancellor should be one who can inspire students and guarantee entry of high quality teachers into the university system. A Vice-Chancellor functions as a bridge between the executive and academic wings of a university as he is the head of both a “teacher” and an “administrator”. C

54. We may refer to some of the significant Commission Reports concerning the personality and role of a Vice-Chancellor of a university as under:

54.1. The 1949 Radhakrishnan Commission stated that originally, the Vice-Chancellorship of an Indian university was H

- A regarded as an honorary post to be filled by a prominent man in his leisure time. But now the position has changed, there is enough work to justify a full-time appointment and the universities should have full-time paid Vice-Chancellors. While discussing the duties of a Vice-Chancellor, the Commission stated that a Vice-Chancellor must be the chief liaison between the university and the public and must be a keeper of the university's conscience, both setting the highest standard by example and dealing firmly and promptly with indiscipline and malpractice of any kind. He/she must have the strength of character to resist unflinchingly the many forms of pressure.
- B Being a full-time task, it needs an exceptional man (or woman) to undertake it. The Commission rejected the proposal of selecting the Vice-Chancellor by an external body and recommended that the Chancellor should appoint the Vice-Chancellor upon the recommendation of the executive.
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- D **54.2.** *The 1971 Report of the Committee on Governance of Universities and Colleges by the University Grants Commission chaired by Dr P.B. Gajendragadkar, former Chief Justice of India* while reiterating the recommendations and observations made by the aforesaid commissions also stated that the selection of a Vice-Chancellor is the single most important decision that the governing body of the university may be called upon to make. While the Chancellor of a university may be a high dignitary of the State or the Union of India or an eminent scholar or eminent person in public life of the State, the appointment of Vice-Chancellor, being the important functionary of the university is most strategic. The powers of proper maintenance of discipline and a healthy environment for both teachers and students in the university is vested with the Vice-Chancellor along with all the other powers vested in him/her by various Statutes, Ordinances or Regulations. The Commission also stated that appointment of a Vice-Chancellor is made in most of the universities out of a panel of at least three names by the Chancellor in case of State Universities and by the Visitor in case of Central Universities. The panel of names is prepared by a Search Committee constituted in accordance with the provision of the Act/Statute. Since it was difficult to have a uniform system of forming a committee in
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all the States, the alternatives to constitute the Search Committee were also provided in the Report. A

54.3. The *1990 Report of the UGC Committee towards New Educational Management by Professor A. Gnanam (also called as the Gnanam Committee Report, 1990)* accentuated the role of a Vice-Chancellor, stating that the Vice-Chancellor should be a person with vision and qualities of academic leadership and with a flair for administration because what the universities need is a sensitive, efficient, fair and bold administrator. The Vice-Chancellor should be a distinguished educationist from the higher education system having highest level of competence, integrity, morals and self-respect. B C

54.4. The *Ramlal Parikh Committee 1993* accented that the universities need distinguished and dignified persons as Vice-Chancellors and it is necessary to ensure that they are treated with dignity and regard, which the office merits. D

54.5. The University Grants Commission in its handbook titled *Governance in Higher Education: Handbook for Vice-Chancellors* published in 2019 has penned down the role of Vice-Chancellor of Indian universities having gained a paramount importance in the recent times. In the words of Prof. D.P. Singh, the then Chairman of University Grants Commission and former Director of National Assessment and Accreditation Council (“NAAC”): E

“As Chief Executives and Academic Heads of Universities, the Vice-Chancellors are expected to be efficient and effective in terms of: F

(a) Implementation of National Higher Education Policy and programmes,

(b) Institutional change in tune with the national reforms package, G

(c) Quality and innovation enhancement and their sustainability,

(d) Productive engagement with ‘communities of scholars’ from within their universities and from national and international domains, H

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 - (e) Nurturing of ‘Research and Innovation Ecosystem’ and translation of deliverables to society and economy,
 - (f) Adoption of international best practices of ‘Good Governance’.”
- B“The Vice-Chancellor has to evolve as the leader of a symphony of orchestra with the attributes of:
 - (a) Developing teams and teamwork, building partnerships and collaborations delicately interwoven by collegiality, friendship and intellectual engagement;
 - (b) Devising a strategy and action plan with defined milestones and deliverables;
 - (c) Ensuring primary accountabilities of self and the abovementioned university governing bodies; and
 - (d) Steering an institutional monitoring and evaluation mechanism on university performance built on principles of transparency.”
- 55.** Discussing the situation in the backdrop of principle of governance as quoted by Chanakya in his *Nitishastra* — “Yatha Raja Tatha Praja”, the sense of morality must begin from the door of the leader who preaches it.
- 56.** Thus, universities are autonomous and the Vice-Chancellor is the leader of a higher education institution. As per the norm, he/ she should be an eminent academician, excellent administrator and also someone who has a high moral stature. The aforesaid reports of the Radhakrishnan Commission, Kothari Commission, Gnanam Committee and Ramlal Parikh Committee have highlighted the importance of the role of Vice-Chancellor in maintaining the quality and relevance of universities, in addition to its growth and development, keeping in view, the much needed changes from time to time. Further, these committees have also made suggestions and recommendations for identifying the right person for the said position. At this stage, it is correct to say that a Vice-Chancellor is the kingpin of a university’s system and a keeper of the university’s conscience.”
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13. Thus, considering the aforesaid relevant provisions, a Vice-Chancellor should have a minimum teaching experience of 10 years as a Professor in the University and his name should be recommended by the Search-cum-Selection Committee and the appointment of the Vice-Chancellor is to be made out of the panel recommended by the Search-cum-Selection Committee. At this stage, it is required to be noted that even as per Section 10(3) of the University Act, 2019, based on the qualification and eligibility prescribe in the regulations of the University Grant Commission, the committee shall prepare a panel of three persons who shall be suitable for the post of the Vice-Chancellor. Therefore, even as per Section 10 of the University Act, 2019, the qualification and eligibility prescribed in the UGC Regulations shall have to be considered by the Search-cum-Selection Committee.

14. In the present case, at the time when the appellant was appointed as Vice-Chancellor, even according to the appellant he was having a teaching experience of 8 years and 5 months as Professor in the University. The appellant rendered service as a professor for the period between 2009 to 2017 till he was appointed as member of the Uttarakhand Public Service Commission on 7.10.2017. He continued as a member of the Public Service Commission till 13.08.2020 when he was appointed as Vice-Chancellor of the University. It is the case on behalf of the appellant that while serving as a member of the Public Service Commission, the appellant was on a long leave and his lien was continued on the post of Professor and therefore the said period between 7.10.2017 to 13.08.2020 may be considered for the purpose of counting the experience cannot be accepted. Merely because his lien was continued on the post of a Professor, it cannot be said that he continued to teach and/or he was having the teaching experience during the period of lien. Even considering Article 319 of the Constitution of India, while working as a member of the Public Service Commission, he could not have rendered any other work on any other post. Therefore, the contention on behalf of the appellant that the period spent by the appellant from 7.10.2017 to 13.08.2020 as a member of the Public Service Commission should be added to his teaching experience, holding lien on the substantive post, cannot be accepted. Merely because such lien is held, the period of lien, by no stretch of imagination, can be treated and/or considered as teaching experience.

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- A 15. Similarly, the submission on behalf of the appellant that while serving as a member of the Public Service Commission, he was supervising the Ph.D scholars and therefore the period during which he worked as a member of the Public Service Commission may be counted for the purpose of experience has also no substance. Supervising the Ph.D. scholars cannot be said to be having a teaching experience as a Professor in the University, which is the requirement. Thus, as rightly observed by the High Court, the appellant was not having the required/requisite minimum 10 years' teaching experience as a Professor in the University, which is the requirement under the UGC Regulations, 2018. As observed hereinabove, before appointing the appellant as a Vice-Chancellor of the University, neither any advertisement was issued, nor the names were called for from the eligible meritorious candidates, nor his name was recommended by the Search-cum-Selection Committee, nor there was any search committee and therefore there was no occasion for the Search-cum-Selection Committee to recommend the panel of persons.
- D 16. From the note sheet dated 5.8.2020, it appears that only one name was placed before the State Government/the Chief Minister for approval. Under the circumstances, the appointment of the appellant as Vice-chancellor of the University was just contrary to Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018.
- E At this stage, it is required to be noted that as observed and held by this Court in the cases of *Gambhiran K. Gadhvi (supra); Anindya Sundar Das (supra); and Dr. Rajasree M.S. (supra)*, in a case where there is a conflict between the State University Act and the UGC Regulations, 2018 to the extent State legislation is repugnant, the UGC Regulations, 2018 shall prevail. As observed hereinabove, UGC Regulations, 2018 were adopted by the State Government and the State Government was otherwise bound to follow and/or act as per the UGC Regulations, 2018.
- G 17. Now so far as the submission on behalf of the appellant that the appellant was the most meritorious person and looking to his academic career and having been satisfied that he is the suitable and meritorious person to be appointed as Vice-Chancellor, thereafter he was appointed as Vice-Chancellor by the State Government is concerned, it may be true that the appellant might have a very good/bright academic career. However, at the same time, it cannot be said that he was the most meritorious person as his case was not compared with other meritorious
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persons. Therefore, the State Government had no opportunity to compare his case with other eligible meritorious candidates. As observed hereinabove, and as per the requirement of Regulation 7.3.0 of the UGC Regulations, 2018 and even as per Section 10 of the University Act, 2019, the selection for the post of Vice-Chancellor should be through proper identification by a panel of 3-5 persons by Search-cum-Selection Committee and the members of such Search-cum-Selection Committee shall be the persons of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the Search Committee shall give proper weightage to the academic excellence etc. and thereafter the Visitor/Chancellor shall appoint the Vice-Chancellor out of the panel of the names recommended by the Search-cum-Selection Committee. The reason behind this seems to be that the person who is ultimately selected and appointed as Vice-Chancellor, his case is compared with other eligible meritorious candidates who were part of the panel recommended by the Search Committee. In the present case, such a procedure has not been followed at all. The merit of the appellant has not at all been compared with other eligible meritorious persons who may be more meritorious than the appellant.

18. In view of the above, the High Court has rightly quashed and set aside the appointment of the appellant as Vice-Chancellor of the University. We are in complete agreement with the view taken by the High Court. The appointment of the appellant as Vice-Chancellor of the University is just contrary to Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018, which has been specifically adopted by the State Government. Therefore, this is a fit case to issue a writ of *quo warranto*, which is rightly issued by the High Court. No interference of this Court is called for.

19. Now so far as the prayer on behalf of the appellant that the appellant is ready and willing to resign as Vice-Chancellor of the University is concerned, the appellant may resign as Vice-Chancellor, if so advised. It is ultimately for him to resign as a Vice-Chancellor. However, the appointment of the appellant as Vice-Chancellor of the University is held to be illegal and *de hors* the statutory requirements under Section 10 of the University Act, 2019 r/w Regulation 7.3.0 of the UGC Regulations, 2018.

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A 20. In view of the aforesaid discussion and for the reasons stated above, the present appeal fails and deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Ankit Gyan and Anurag Bhaskar
(Assisted by : Adnan Khan, LCRA)

Appeal dismissed.