

A PROFESSOR (DR.) SREEJITH P.S.

v.

DR. RAJASREE M.S. & ORS.

(Civil Appeal Nos. 7634-7635/2022)

B OCTOBER 21, 2022

[M.R. SHAH AND C.T. RAVIKUMAR, JJ.]

- Constitution of India – Art. 254 –UGC Regulations, 2010 – UGC Guidelines – APJ Abdul Kalam Technological University (AAKTU) Act, 2015 (University Act, 2015/State Act) & Regulations – S. 13 – Appointment to the post of Vice Chancellor – Requirement of recommending a panel of names by search committee – State government's discretion to adopt and implement UGC Regulations, 2010 – Repugnancy between State legislation and Central legislation – Appellant herein filed a writ petition before the Single Judge of the Kerala High Court to declare the appointment of the respondent No. I as Vice Chancellor of the AAKTU, Thiruvananthapuram as void on the ground the appointment was contrary to UGC Regulations, which required that the Search Committee should recommend a panel of three to five names for consideration, but in the instant case, only one name was recommended – Further contended that UGC Act shall prevail over State legislation – Single Judge dismissed the petition by noting that unless the UGC Regulations are specifically adopted by the State Government, the State legislation shall prevail and once the Search Committee was constituted as per Section 13 of the University Act enacted by the State, the appointment of the respondent No. I can be said to be by a duly constituted Search Committee and as such the appointment cannot be said to be illegal – Appellant appealed before a Division Bench, which came to be dismissed – Question for the Supreme Court – Whether while making the appointment of respondent No. I as Vice Chancellor of the AAKTU, Thiruvananthapuram, the appointment should be as per the prevailing UGC Regulations or in effect of the provisions of the University Act, 2015 (State Act)?; Whether the Search Committee constituted to recommend the name of the respondent No. I as Vice Chancellor of the University can be*

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said to be duly constituted Committee? – Held: Any appointment as a Vice Chancellor made on the recommendation of the Search Committee, which is constituted contrary to the provisions of the UGC Regulations shall be void ab initio – If there is any conflict between the State legislation and the Union legislation, the Union law shall prevail even as per Article 254 of the Constitution of India to the extent the provision of the State legislation is repugnant – Merely because the subsequent amendment has not been specifically adopted/accepted by the State cannot be a ground by the State to contend that the amendment to the Regulations shall not be binding on the State/State's Universities – Search Committee in this case was not a duly constituted Search Committee as per UGC regulations – Under UGC regulations, the Search Committee duly constituted has to send a panel of 3-5 names for consideration as appointment as Vice Chancellor, and thereafter the Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the Search Committee – Even under University Act, the Search Committee shall recommended unanimously a panel of not less than three suitable persons – When only one name was recommended and the panel of names was not recommended, the Chancellor had no option to consider the names of the other candidates – Thus, the appointment of the respondent No. 1 can be said to be dehors and/or contrary to the provisions of the UGC Regulations as well as even to the University Act, 2015.

Allowing the appeals, the Court

HELD: 1.1 Any appointment as a Vice Chancellor made on the recommendation of the Search Committee, which is constituted contrary to the provisions of the UGC Regulations shall be void ab initio. If there is any conflict between the State legislation and the Union legislation, the Union law shall prevail even as per Article 254 of the Constitution of India to the extent the provision of the State legislation is repugnant. [Para 8.4][264-B-D]

1.2 In the present case as such vide order dated 10 December 2010, the UGC Regulations have been specifically adopted by the State Government. In the order dated 27 March 2010, while adopting/accepting the UGC Regulations, it is

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- A specifically observed in paragraph 5 that all the universities shall incorporate the UGC Regulations in their Statutes and Regulations within one month from the date of the said order and Government will initiate steps to amend the Acts of the Universities, if required to implement the Regulations. It is further mentioned in paragraph 5 that Government will also take the steps to amend the Special Rules to give effect to the stipulations of the UGC Regulations. Merely because the subsequent amendment has not been specifically adopted/accepted by the State cannot be a ground by the State to contend that the amendment to the Regulations shall not be binding on the State/ State's Universities. Therefore also, the UGC Regulations were applicable with respect to the appointment of Vice Chancellor in the respective Universities in the State and the appointment of the Vice Chancellor shall be always as per the relevant provisions of the UGC Regulations amended from time to time.
- D [Para 8.5][264-E-H]
 - 1.3 As per the UGC Regulations, 2013 – Clause 7.3.0, the selection of the Vice Chancellor should be through proper identification of a panel of 3-5 names by a Search Committee and the members of the Search 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. It further provides that the Visitor/Chancellor shall appoint the Vice Chancellor out of the names recommended by the Search Committee. The recommendation for appointment as a Vice Chancellor should be sent by the Search Committee duly constituted and that the Search Committee has to recommend the names and thereafter the Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the Search Committee. [Para 8.7][267-D-F]
- G 1.4 Even as per Section 13(4) of the University Act, 2015, the Committee shall recommend unanimously a panel of not less than three suitable persons from amongst the eminent persons in the field of engineering sciences, which shall be placed before the Visitor/Chancellor. In the present case, admittedly the only name of respondent No. 1 was recommended to the Chancellor.
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As per the UGC Regulations also, the Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the Search Committee. Therefore, when only one name was recommended and the panel of names was not recommended, the Chancellor had no option to consider the names of the other candidates. Therefore, the appointment of the respondent No. 1 can be said to be dehors and/or contrary to the provisions of the UGC Regulations as well as even to the University Act, 2015. Therefore, the appointment of respondent No. 1 on the basis of the recommendations made by the Search committee, which was not a duly constituted Search Committee as per the UGC Regulations and when only one name was recommended in spite of panel of suitable candidates (3-5 suitable persons as required under Section 13(4) of the University Act, 2015), the appointment of respondent No. 1 can be said to be illegal and void ab initio, and, therefore, the writ of quo warranto was required to be issued. [Para 8.10][271-H; 272-A-D]

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1.5 The impugned judgment(s) and order(s) passed by the Division Bench of the High Court as well as that of the learned Single Judge dismissing the writ petition and refusing to issue the writ of quo warranto declaring the appointment of respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram as bad in law and/or illegal and void ab initio are hereby quashed and set aside. The writ petition is allowed. There shall be a writ of quo warranto declaring the appointment of the respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram as void ab initio and consequently, the appointment of respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram is quashed and set aside. [Para 9][272-E-F]

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Kalyanji Mathivanan Vs. K.V. Jeyaraj and Ors. (2015)

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6 SCC 363 : 2015 (3) SCR 467; Gambhiran K. Gadhvi

*Vs. State of Gujarat and Ors. (2022) 5 SCC 179; State
of West Bengal Vs. Anindya Sundar Das & Ors. 2022*

(14) SCALE 636 – referred to.

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- | A | <u>Case Law Reference</u> | |
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| | <p>[2015] 3 SCR 467 referred to Para 2.2</p> <p>(2022) 5 SCC 179 referred to Para 3</p> <p>2022 (14) SCALE 636 referred to Para 3</p> | |
| B | <p>CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7634-7635 of 2022.</p> <p>From the Judgment and Order dated 02.08.2021 of the High Court of Kerala at Ernakulam in W.A. No.514 of 2021 and dated 24.09.2021 in R.P. No.634 of 2021.</p> | |
| C | <p>Dr. Amit George, Mohammed Sadique T.A., Mrs. Anu K. Joy, Alim Anvar, Mobashshir Sarwar, Piyo Harold, Bharat Rayadurgam, Amol Acharya, A. Bhaumik, Ms. Iram Peerjada, Advs. for the Appellant.</p> | |
| D | <p>Jaideep Gupta, Sr. Adv., Harshad V. Hameed, Dileep Poolakkot, Mrs. Ashly Harshad, C. K. Sasi, Abdulla Naseeh V. T., Ms. Meena K. Poulose, P. V. Dinesh, Rahul Raj Mishra, Bineesh K, Ashwini Kumar Singh, Ravinder Agarwal, Lekhraj Singh, Advs. for the Respondents.</p> | |
| <p>The Judgment of the Court was delivered by</p> <p>M.R. SHAH, J.</p> | | |
| E | <p>1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 02.08.2021 passed by the High Court of Kerala at Ernakulam in Writ Appeal No. 514 of 2021 and Order dated 24.09.2021 in Review Petition No. 634 of 2021 by which the Division Bench of the High Court has dismissed the said appeal and the review petition preferred</p> | |
| F | <p>by the appellant herein and has confirmed the judgment and order passed by the learned Single Judge refusing to issue writ of quo warranto to declare the appointment of the respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram as void ab initio, the original writ petitioner has preferred the present appeals.</p> | |
| G | <p>2. The appellant herein – original writ petitioner preferred the writ petition before the learned Single Judge of the High Court for writ of quo warranto to declare the appointment of the respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University,</p> | |
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Thiruvananthapuram as void ab initio inter alia on the grounds that the appointment of the respondent No. 1 dehors the provisions of the UGC Regulations; that the composition of the Search Committee was not in accordance with the UGC Regulations, 2010; even the recommendation and appointment of the respondent No. 1 as Vice Chancellor was not in accordance with the UGC Guidelines; the Search Committee was required to recommend a panel of three to five names to the Chancellor, however, in the present case, only one name was recommended to the Chancellor, which was contrary to the UGC Regulations; the provisions of the University Act to the extent it conflicts with the UGC Regulations shall not be binding and the provisions of the UGC Regulations shall prevail over the said legislation to the extent they are in conflict with the UGC Regulations.

2.1 The writ petition was opposed on behalf of the respondents. It was inter alia contended that unless the UGC Regulations are adopted by the State Government, the University Act enacted by the State shall prevail and that the UGC Regulations, 2010 are directory for the universities and colleges and for the other higher educational institutions under the provisions of the State legislature as the matter has been left to the State Government to adopt and implement the scheme.

2.2 The learned Single Judge dismissed the writ petition relying upon the decision of this Court in the case of **Kalyanji Mathivanan Vs. K.V. Jeyaraj and Ors., (2015) 6 SCC 363** by observing that unless the UGC Regulations are specifically adopted by the State Government, the State legislation shall prevail. Therefore, the learned Single Judge opined that once the Search Committee was constituted as per Section 13 of the University Act enacted by the State, the appointment of the respondent No. 1 therefore, can be said to be by a duly constituted Search Committee and as such the appointment cannot be said to be illegal.

2.3 Feeling aggrieved and dissatisfied with the judgment and order passed by the learned Single Judge, the appellant preferred the appeal before the Division Bench. Before the Division Bench, it was specifically argued and pointed out that in fact the UGC Regulations were adopted by the State Government, however, the Division Bench while dismissing the appeal has observed that as the amendment to the UGC Regulations have not been adopted, the same shall not be applicable and/or binding

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- A while appointing the respondent No. 1. Again, relying upon the decision of this Court in the case of **Kalyanji Mathivanan (supra)**, the Division Bench has dismissed the appeal, which has given rise to the present appeals.
3. Shri Amith George, learned Senior Advocate appearing on behalf of the appellant has vehemently submitted that the impugned judgment(s) and order(s) passed by the High Court are just contrary to the decision of this Court in the case of **Gambhiran K. Gadhvi Vs. State of Gujarat and Ors., (2022) 5 SCC 179** as well as the recent decision of this Court in the case of **State of West Bengal Vs. Anindya Sundar Das & Ors., Civil Appeal No. 6706 of 2022**.
- C 3.1 It is vehemently submitted by Shri George, learned Senior Advocate appearing on behalf of the appellant that as observed and held by this Court in the aforesaid two decisions, the provisions of the UGC Regulations shall be applicable and prevail. It is submitted that therefore any provision of the State Act (in the present case, the University Act and the Regulations), which are in conflict with the UGC Regulations shall be repugnant and the provisions of the UGC Regulations shall have to be applied.
- E 3.2 It is submitted that as such in the present case the UGC Regulations, 2010 were in fact adopted by the State Government vide order dated 10.12.2010. However, the High Court has erroneously observed and held that the UGC Regulations shall not be applicable as the subsequent amendment to the UGC Regulations dated 13.06.2013 have not been specifically adopted by the State Government.
- F 3.3 It is submitted that therefore any appointment on the post of Vice Chancellor of the University contrary to the UGC Regulations shall be void ab initio and therefore, the High Court ought to have issued a writ of quo warranto.
- G 3.4 It is submitted that in the present case, the Search Committee constituted to recommend the appointment of the respondent No. 1 as Vice Chancellor was not duly constituted Search Committee as required under the provisions of the UGC Regulations and therefore the same was illegal and void ab initio.
- H 3.5 It is submitted that even otherwise, ever as per Section 13 of the University Act, the Search Committee was required to recommend

a panel of not less than three suitable persons from amongst the eminent persons in the field of engineering sciences. It is submitted that in the present case, the Search Committee recommended the name of the respondent No. 1 alone, which was sent to the Chancellor. It is submitted that therefore also the appointment of the respondent No. 1 can be said to be contrary to Section 13(4) of the University Act, 2015.

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3.6 Making above submissions and relying upon the above two decisions, it is prayed to allow the present appeals and quash and set aside the impugned judgment(s) and order(s) passed by the High Court and allow the writ petition preferred by the appellant and to issue a writ of quo warranto declaring the appointment of respondent No. 1 as illegal and void ab initio.

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4. Present appeals are vehemently opposed by Shri Jaideep Gupta, learned Senior Advocate appearing on behalf of the State – Government of Kerala. Relying upon the decision of this Court in the case of **Kalyani Mathivanan (supra)**, it is submitted that as observed and held by this Court unless the UGC Regulations are specifically adopted by the state, the State is not bound by the UGC Regulations. It is submitted that therefore the Hon'ble High Court has rightly refused to issue a writ of quo warranto considering and/or relying upon the decision of this Court in the case of **Kalyani Mathivanan (supra)**.

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5. Present appeals are opposed by Shri P.V. Dinesh, learned counsel appearing on behalf of the respondent No. 1.

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5.1 It is submitted that even assuming that the UGC Regulations, 2013 shall be applicable, in that case also, even considering the relevant provisions of the UGC Regulations, 2013, the Search Committee constituted in the present case cannot be said to be contrary to UGC Regulations. It is submitted that in the present case, the Search Committee was consisted of one member nominated by AICTE and the Chief Secretary of the State. It is submitted that the member nominated by AICTE can be said to be a person of eminence in the sphere of higher education. It is submitted that therefore, it cannot be said that the Search Committee constituted to recommend the name of the respondent No. 1 was illegally constituted Search Committee.

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5.2 Making above submissions, it is prayed to dismiss the present appeals.

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- A 6. Heard the learned counsel appearing on behalf of the respective parties at length.
7. The short question, which is posed for consideration of this Court is: whether while making the appointment of respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram, the appointment should be as per the prevailing UGC Regulations or in effect of the provisions of the University Act, 2015 (State Act)?
- B The other question which is posed before this Court for consideration is: whether the Search Committee constituted to recommend the name of the respondent No. 1 as Vice Chancellor of the University can be said to be duly constituted Committee?
- C 8. Identical question came to be considered by this Court in the case of **Gambhirdan K. Gadhvi (supra)** and **Kalyani Mathivanan (supra)**. Now, the issue whether the UGC Regulations shall prevail vis-à-vis the State legislation/State Act, identical question came to be considered by this Court in the recent decision of this Court in the case of **Gambhirdan K. Gadhvi (supra)**. While considering the appointment of the Vice Chancellor in the Sardar Patel University, Gujarat, it is specifically observed and held by this Court that the appointment of Vice Chancellor cannot be made dehors the applicable UGC Regulations, even if the State Act concerned prescribes diluted eligibility criteria, vis-à-vis the criteria prescribed in the applicable UGC Regulations. It is further observed and held by this Court in the aforesaid decision that the State Act if not on a par with the UGC Regulations, must be amended to bring it on a par with the applicable UGC Regulations and until then it is the applicable UGC Regulations that shall prevail. It is further observed and held that being a subordinate legislation, UGC Regulations become part of the Act. It is further observed and held that in case of any conflict between the State legislation and the Central legislation, the Central legislation, i.e., the applicable UGC Regulations shall prevail by applying the principle of repugnancy under Article 254 of the Constitution as the subject “education” is contained in the Concurrent List of Schedule VII of the Constitution. The observations made in relevant paras are as under:-
- G “**20.** Now the next question which is posed for consideration of this Court is, whether, the appointment of

Respondent 4 as a Vice-Chancellor of the SP University — A
Respondent 2 herein can be said to be contrary to any statutory provisions and whether, can it be said that Respondent 4 fulfils the eligibility criteria for the post of Vice-Chancellor.

20.1. While examining the aforesaid issues the relevant provisions of the UGC Regulations, 2010 enacted in exercise of powers conferred under clauses (e) and (g) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956 and the relevant provisions of the SPU Act, 1955, are required to be referred to. B

20.2. The UGC Act, 1956 was enacted to make provision for the coordination and determination of standards in universities and for that purpose, to establish a University Grants Commission. Section 12 deals with “Functions of the Commission”, while Section 14 speaks of “Consequences of failure of universities to comply with recommendations of the Commission”. Section 26 deals with “Power to make regulations”. As per Section 28 the rules and regulations framed under the UGC Act are required to be laid before each House of Parliament and when both the Houses agree then rules and regulations can be given effect with such modification as may be made by Parliament. Therefore, any regulation enacted in exercise of powers under Section 26 can be said to be subordinate legislation. C D E

20.3. For the appointment and career advancement of teachers in the universities and institutions affiliated to it, UGC by Regulation dated 4-4-2000, enacted the University Grants Commission (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it) Regulations, 2000. However, in the said Regulation of 2000, no qualifications were prescribed for the post of “Pro-Chancellor” or “Vice-Chancellor”. F G

21. Thereafter, the Government of India, Ministry of Human Resource Development Department of Higher Education, New Delhi by Letter No. 1-32/2006-U.II/U.I(i) dated 31-12-2008 communicated to the Secretary, University Grants Commission, New Delhi the Scheme of revision of pay of H

- A teachers and equivalent cadres in universities and colleges following the revision of pay scales of the Central Government employees on the recommendations of the 6th Central Pay Commission.
- B **22.** By the said letter, the Government of India directed that there shall be only three designations in respect of teachers in the universities and colleges, namely, Assistant Professors, Associate Professors and Professors. In the said letter revised pay scales, service conditions and Career Advancement Scheme for teachers and equivalent positions including the post of Assistant Professors/Associate Professors/Professors in universities and colleges were intimated. Pay scales of Pro Vice-Chancellor/Vice-Chancellor were also mentioned therein. It was intimated that the said Scheme may be extended to the universities, colleges and other higher educational institutions coming under the purview of the State Legislature, provided the State Governments wish to adopt and implement the Scheme subject to the terms and conditions mentioned therein.
- C **23.** In view of the aforesaid Letter No. 1-32/2006-U.II/U.I(i), dated 31-12-2008 issued by the Government of India and in exercise of the powers conferred under clauses (e) and (g) of sub-section (1) of Section 26 of the UGC Act, 1956, UGC enacted the Regulations, 2010 in supersession of the UGC Regulations, 2000. It was published in the Gazette of India on 28-6-2010 and came into force with immediate effect.
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- D **25.** Regulation 7.4.0 mandates that the universities/State Governments shall modify or amend the relevant Acts/Statutes of the universities concerned within six months of adoption of these Regulations.
- E **26.** Thus, UGC Regulations, 2010, inter alia, prescribe in Regulation 7.3.0 that a person shall have ten years of teaching work experience as a Professor in a university system. It also provides for constitution of a Search Committee consisting of a nominee of the Visitor/Chancellor, a nominee of the Chairman of the UGC, a nominee of the Syndicate/Executive Council of
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the University and the Search Committee has to recommend A
the names of the successful candidates.

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50. It cannot be disputed that the UGC Regulations are enacted by the UGC in exercise of powers under Sections 26(1)(e) and 26(1)(g) of the UGC Act, 1956. Even as per the UGC Act every rule and regulation made under the said Act, shall be laid before each House of Parliament. Therefore, being a subordinate legislation, UGC Regulations becomes part of the Act. In case of any conflict between the State legislation and the Central legislation, Central legislation shall prevail by applying the rule/principle of repugnancy as enunciated in Article 254 of the Constitution as the subject “education” is in the Concurrent List (List III) of the Seventh Schedule to the Constitution. Therefore, any appointment as a Vice-Chancellor contrary to the provisions of the UGC Regulations can be said to be in violation of the statutory provisions, warranting a writ of quo warranto.”

8.1 That thereafter and having found that the appointment of the Vice Chancellor in the Sardar Patel University was contrary to the UGC Regulations, 2010, this Court issued the writ of quo warranto. It is required to be noted that the decision of this Court in the case of **Kalyani Mathivanan (supra)** was also pointed out by this Court.

8.2 Even in the case of **Kalyani Mathivanan (supra)**, it is observed in paragraph 53 that to the extent the State legislation is in conflict with the Central legislation including subordinate legislation made by the Central legislation under Entry 25 of the Concurrent List, the same shall be repugnant to the Central legislation and would be inoperative. It is also required to be noted that in the case of **Kalyani Mathivanan (supra)**, this Court was considering the UGC Regulations, 2010, which were silent in regard to the post of Vice Chancellor.

8.3 The decision of this Court in the case of **Gambhir dan K. Gadhw i (supra)** has been subsequently followed by this Court in the recent decision of this Court in the case of **Anindya Sundar Das & Ors (supra)** while considering the appointment of the Vice Chancellor of Calcutta University. In the said decision, it is also observed and held in paragraph 56 that in view of the decision in the case of **Gambhir dan** H

- A **K Gadhvi (supra)**, even if the provisions of the State Act allowed the appointment of the Vice Chancellor by the State government, it would have to be as per the UGC Regulations and any appointment of Vice Chancellor in violation of the UGC Regulations shall be void ab initio. It is further observed that the UGC Regulations shall become part of the statute framed by Parliament and, therefore, shall prevail.
- B 8.4 In view of the above two binding decisions of this Court, any appointment as a Vice Chancellor made on the recommendation of the Search Committee, which is constituted contrary to the provisions of the UGC Regulations shall be void ab initio. If there is any conflict between the State legislation and the Union legislation, the Union law shall prevail
- C even as per Article 254 of the Constitution of India to the extent the provision of the State legislation is repugnant. Therefore, the submission on behalf of the State that unless the UGC Regulations are specifically adopted by the State, the UGC Regulations shall not be applicable and the State legislation shall prevail unless UGC Regulations are specifically adopted by the State cannot be accepted.
- D 8.5 Even otherwise, it is required to be noted that in the present case as such vide order dated 10.12.2010, the UGC Regulations have been specifically adopted by the State Government. At this stage, it is required to be noted that in the order dated 27.03.2010, while adopting/accepting the UGC Regulations, it is specifically observed in paragraph 5 that all the universities shall incorporate the UGC Regulations in their Statutes and Regulations within one month from the date of the said order and Government will initiate steps to amend the Acts of the Universities, if required to implement the Regulations. It is further mentioned in paragraph 5 that Government will also take the steps to amend the Special Rules to give effect to the stipulations of the UGC Regulations. Merely because the subsequent amendment has not been specifically adopted/accepted by the State cannot be a ground by the State to contend that the amendment to the Regulations shall not be binding on the State/State's Universities. Therefore also, the UGC
- E Regulations were applicable with respect to the appointment of Vice Chancellor in the respective Universities in the State and the appointment of the Vice Chancellor shall be always as per the relevant provisions of the UGC Regulations amended from time to time.

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8.6 Now, the next question, which is posed for the consideration A of this Court is whether in fact in the present case, the Search Committee constituted to recommend the name of the respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram can be said to be a duly constituted Search Committee, is concerned, the relevant clauses of the UGC Regulations, 2013 and Section 13 of the APJ Abdul Kalam Technological University Act, 2015 relating to the appointment of the Vice Chancellor are required B relating to the appointment of the Vice Chancellor are required to be referred to, which are as under:-

**CLAUSE 7.3.0 OF UNIVERSITY GRANTS
COMMISSION (2nd AMENDMENT) REGULATIONS.
2013. EXT.R3(a)**

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7.3.0 VICE CHANCELLOR:

i. Persons of the highest level of competence, integrity; morals and institutional commitment are to be appointed as Vice-Chancellors. The Vice-Chancellor to be appointed should be a distinguished academician with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/ or academic administrative organization.

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ii. The selection of Vice Chancellor should be through proper identification of a panel of 3-5 names by a Search Committee through a public notification or nomination or a talent search process or in combination. The members of the above Search 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 Committee must give proper weightage to 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. The constitution F G of the Search Committee could be as per the Act/Statutes of the concerned university.

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iii. The Visitor/ Chancellor shall appoint the Vice Chancellor out H of the Panel of names recommended by the Search Committee.

- A iv. The conditions of services of the Vice Chancellor shall be as prescribed in the Act Statutes of the university consented in conformity with the Principal Regulations.
v. The term of office of the Vice Chancellor shall form part of the service period of the incumbent concerned making him/her eligible for all service related benefits.
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SECTION 13 OF APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY ACT, 2015

13. The Vice-Chancellor

- C (1) The Vice-Chancellor shall be the principal executive and academic officer of the University. He shall be the ex-officio Chairman of the Executive Committee and of the Academic Committee.
- D (2) The first Vice-Chancellor shall be appointed by the Chancellor on the recommendation of the Government and thereafter the Vice-Chancellor shall be appointed by the Chancellor from among a panel of names recommended by a Search Committee consisting of the following members, namely:
 - (i) one member elected by the Board of Governors:
 - (ii) one member nominated by the AICTE
 - (iii) the Chief Secretary of the State, who shall be the Convenor of the Committee
- F (3) The process of preparing a panel shall begin at least three months before the probable date of occurrence of the vacancy of the Vice-Chancellor and shall be completed within the time-limit fixed by the Chancellor. The Chancellor, however, may extend such time-limit, if, in the exigency of the circumstances, it is necessary to do so. However, the process of preparation of the panel shall be completed within a period of three months, including the period so extended.
- G 4. The Committee shall recommend unanimously a panel of not less than three suitable persons from amongst the eminent persons in the field of engineering sciences. The names shall be in English alphabetical order. The report shall be accompanied
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by a detailed write-up on the suitability of each person included in the panel. In case the Committee fails to make a unanimous recommendation as provided, each member of the Committee may submit the name of one person each to the Chancellor. The non submission of the name by any member of the Committee shall not invalidate the appointment of the Vice-Chancellor.

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(5) No person who is more than sixty one years of age shall be appointed as Vice-Chancellor and after the appointment, he shall, subject to the terms and conditions of his appointment, hold office for a period of four years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier.

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(6) The persons appointed as Vice-Chancellor will be eligible for re-appointment provided he has not attained the maximum age mentioned in sub-section 5.

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8.7 Thus, as per the UGC Regulations, 2013 – Clause 7.3.0, the selection of the Vice Chancellor should be through proper identification of a panel of 3-5 names by a Search Committee and the members of the Search 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. It further provides that the Visitor/Chancellor shall appoint the Vice Chancellor out of the names recommended by the Search Committee. Therefore, the recommendation for appointment as a Vice Chancellor should be sent by the Search Committee duly constituted and that the Search Committee has to recommend the names and thereafter the Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the Search Committee. While preparing the panel, the Search Committee must 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.

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8.8 The importance of the post of the Vice Chancellor has been elaborately observed and considered by this Court in the case of **Gambhiran K. Gadhvi (supra)** in paragraphs 53, 54, 54.1 to 54.5, 55 and 56 as under:-

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“**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

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- A 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”.
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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:
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54.1. The 1949 Radhakrishnan Commission stated that originally, the Vice-Chancellorship of an Indian university was 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. 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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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 of 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 all the States, the alternatives to constitute the Search Committee were also provided in the Report.

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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.

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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.

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- A **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”):
- “As Chief Executives and Academic Heads of Universities, the Vice-Chancellors are expected to be efficient and effective in terms of:
- C (a) Implementation of National Higher Education Policy and programmes,
- (b) Institutional change in tune with the national reforms package,
- (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,
- E (e) Nurturing of ‘Research and Innovation Ecosystem’ and translation of deliverables to society and economy,
- (f) Adoption of international best practices of ‘Good Governance’.”
- F “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
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(d) Steering an institutional monitoring and evaluation mechanism on university performance built on principles of transparency.” A

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. B

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.” C D

8.9 On the role of Search Committee / Selection Committee, it is observed in paragraph 57 as under:- E

“**57.** Further, in our view, the Search/Selection Committee plays a vital and significant role in the selection of the Vice-Chancellor; yet the selected Vice-Chancellor’s performance in the universities vary from university to university. Therefore, the members of the Search Committee, who are given the privilege and honour of selecting and suggesting names for the appointment of Vice-Chancellor are directly or indirectly responsible for the achievement of the university. Commitment to the quality and the objectives of the universities in particular and higher education system in general, are of course the deciding factors in selecting the right person.” F G

8.10 At this stage, it is required to be noted that even as per Section 13(4) of the University Act, 2015, the Committee shall recommend unanimously a panel of not less than three suitable persons from amongst H

- A the eminent persons in the field of engineering sciences, which shall be placed before the Visitor/Chancellor. In the present case, admittedly the only name of respondent No. 1 was recommended to the Chancellor. As per the UGC Regulations also, the Visitor/Chancellor shall appoint the Vice Chancellor out of the panel of names recommended by the Search Committee. Therefore, when only one name was recommended and the panel of names was not recommended, the Chancellor had no option to consider the names of the other candidates. Therefore, the appointment of the respondent No. 1 can be said to be dehors and/or contrary to the provisions of the UGC Regulations as well as even to the University Act, 2015. Therefore, the appointment of respondent No. 1 on the basis of the recommendations made by the Search committee, which was not a duly constituted Search Committee as per the UGC Regulations and when only one name was recommended in spite of panel of suitable candidates (3-5 suitable persons as required under Section 13(4) of the University Act, 2015), the appointment of respondent No. 1 can be said to be illegal and void ab initio, and, therefore, the writ of quo warranto was required to be issued.
- B 9. In view of the above and for the reasons stated above, the present appeals succeed. The impugned judgment(s) and order(s) passed by the Division Bench of the High Court as well as that of the learned Single Judge dismissing the writ petition and refusing to issue the writ of quo warranto declaring the appointment of respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram as bad in law and/or illegal and void ab initio are hereby quashed and set aside. The writ petition is allowed. There shall be a writ of quo warranto declaring the appointment of the respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram as void ab initio and consequently, the appointment of respondent No. 1 as Vice Chancellor of the APJ Abdul Kalam Technological University, Thiruvananthapuram is quashed and set aside.
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Present appeals are accordingly allowed. No costs.