



## Are UGC regulation in the appointment of teaching positions mandatory or directory for the state universities?: An analysis in light of the recently supreme court judgments

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### Abstract

This paper research examines the status of University Grants Commission (UGC) regulations concerning the appointment of teaching positions in state universities, analysing whether these regulations are mandatory or directory. With the backdrop of recent Supreme Court judgments, the study highlights the legal framework governing higher education in India, focusing on the balance between UGC standards and the autonomy of state universities. This research paper investigates the nature of University Grants Commission (UGC) regulations regarding the appointment of teaching positions in state universities, specifically addressing whether these regulations are mandatory or directory. Given the crucial role of the UGC in maintaining educational standards across India, the study contextualizes the debate within the framework of recent Supreme Court judgments that have significant implications for the governance of higher education. The paper begins with an overview of the UGC Act of 1956, highlighting the Commission's authority to establish norms for faculty recruitment. It examines the autonomy of state universities, which often operate under distinct state laws, leading to questions about the binding nature of UGC regulations. The role of the University Grants Commission (UGC) in establishing regulations for the appointment of teaching positions in Indian universities has been a subject of extensive debate. This paper aims to analyse whether these regulations are mandatory or directory for state universities, particularly in light of recent Supreme Court judgments. By examining legal precedents, statutory frameworks, and their implications, the paper seeks to clarify the status of UGC regulations and their impact on the higher education landscape in India.

**Keywords:** UGC regulations, teaching positions, state universities, mandatory, directory, judicial verdicts

### Introduction

The UGC was established in 1956 to coordinate, determine, and maintain the standards of higher education in India. Over the decades, it has formulated various regulations, including those pertaining to the qualifications and selection processes for university teachers. These regulations are intended to create a uniform standard across institutions and to safeguard the integrity of the education system. Despite their significance, the implementation of UGC guidelines has often been met with challenges, leading to inconsistencies in appointment practices across state universities. The landscape of higher education in India has witnessed significant transformations, particularly in the governance and regulatory frameworks that guide the appointment of teaching positions in state universities. The University Grants Commission (UGC), as the apex regulatory body, has established a set of norms intended to standardize the recruitment and qualification criteria across institutions. This research paper seeks to critically analyse whether the UGC regulations concerning the appointment of teaching faculty are mandatory or merely directory for state universities, especially in light of recent Supreme Court judgments that have shaped this discourse. The Supreme Court has historically played a pivotal role in interpreting the legal status and implications of UGC regulations. Recent rulings have sparked considerable debate regarding the enforceability of these guidelines, raising pertinent questions about the autonomy of state universities and the necessity of adhering to UGC standards. This analysis aims to explore the judicial perspective on the UGC's role, examining the tension between regulatory compliance and institutional discretion. By scrutinizing key Supreme Court judgments and their implications for university governance,

this paper will highlight the legal and administrative challenges faced by state universities in aligning with UGC regulations. Furthermore, it will assess the impact of these regulations on academic quality, faculty recruitment processes, and the overall integrity of the educational system. Ultimately, this research will contribute to a deeper understanding of the intersection between regulatory frameworks and institutional autonomy, providing insights that may inform future policies in higher education governance. The appointment of teaching positions in state universities is a critical aspect of ensuring quality education and maintaining academic standards.

In India, the University Grants Commission (UGC) plays an important role in regulating these appointments through a framework of guidelines and regulations. However, the distinction between mandatory and directory norms in these regulations has sparked significant debate among scholars, policymakers, and legal experts. This paper aims to explore whether UGC regulations concerning the appointment of teaching positions in state universities are mandatory or merely directory, particularly in light of recent Supreme Court judgments that have addressed this issue.

### Objectives of the paper

This research paper seeks to achieve the following objectives:

- To analyse the legal status of UGC regulations concerning teaching appointments and ascertain whether they are mandatory or directory.
- To evaluate key Supreme Court judgments that address the application of UGC regulations and their implications for state universities.

- To investigate how the interpretation of these regulations affects the quality of education and the integrity of the academic appointment process in state universities.
- To provide recommendations for policymakers and educational institutions based on the findings of the analysis.

### **Review of literature**

The literature on UGC regulations concerning the appointment of teaching positions in state universities highlights a significant debate regarding their mandatory versus directory nature, informed by recent Supreme Court judgments. The review of literature indicates a consensus on the importance of UGC regulations in ensuring quality in higher education. The Supreme Court's recent judgments have reinforced the interpretation that these regulations are mandatory for state universities. However, ongoing debates regarding their directory aspects suggest a need for further exploration. Future research should aim to fill gaps in understanding the practical implications of these regulations and their impact on the educational landscape in India.

### **Significance of the study**

Understanding whether UGC regulations are mandatory or directory is crucial for several reasons. Firstly, it impacts the legal framework governing academic appointments, influencing how universities recruit faculty members. Secondly, it has broader implications for the quality of higher education in India, as adherence to established standards is vital for ensuring that educators possess the requisite qualifications and expertise. Lastly, this analysis can inform future legal interpretations and educational policies, contributing to the ongoing discourse on academic governance in Indian higher education.

In conclusion, this paper will provide a comprehensive analysis of the legal and educational implications of UGC regulations for teaching appointments in state universities, framed within the context of recent Supreme Court judgments. By doing so, it aims to contribute to the broader understanding of regulatory frameworks in higher education and their significance for maintaining academic excellence.

### **Legal framework**

The UGC Act, 1956 empowers the Commission to establish norms for the selection and appointment of teaching staff. The guidelines laid out by the UGC are intended to ensure a standardized approach to faculty recruitment across universities State Universities and autonomy. State universities operate under their respective state laws and often enjoy a degree of autonomy in administrative matters. This autonomy raises questions about the applicability of UGC regulations, particularly when state laws and UGC guidelines diverge. University Grant Commission (UGC) regulations are typically obligatory for statutory universities in India. Statutory universities are established by an act of parliament or state legislature, and they operate under the purview of the University Grants Commission (UGC). The UGC Act of 1956 empowers the UGC to coordinate, determine, and maintain standards of higher education. The term "University" has a wider connotation under Section 2(f) of the Act. It reads as "University means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such

institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act." The UGC issues regulations from time to time to ensure quality and uniformity in the education provided by these universities. These regulations cover various aspects, including curriculum design, faculty qualifications, infrastructure, and other parameters deemed essential for maintaining academic standards. The UGC Act provides a legal framework for the establishment and functioning of universities, and it confers the UGC with the authority to make regulations regarding various aspects of higher education. Section 22 of the UGC Act for instance, specifies that only universities established by a Central, State, or Provincial Act or an institution deemed to be a university under Section 3 of the Act have the right to confer degrees. This provision highlights the regulatory control that the UGC exercises over universities. In addition to statutory provisions, the UGC Act empowers the UGC to take necessary steps for promoting and coordinating university education and determining and maintaining standards. This broad authority includes the formulation of regulations to be followed by universities.

The UGC, through its regulations, aims to ensure that universities adhere to certain minimum standards and benchmarks, thereby safeguarding the quality of higher education in the country. Statutory universities derive their authority from specific legislation enacted by the government, conferring legal status and autonomy. The UGC, established in 1956, was created to regulate and maintain the standards of higher education in the country. It formulates guidelines and regulations that statutory universities are expected to adhere to. The question of whether these regulations are mandatory or recommendatory has been a matter of judicial consideration.

### **Judgment relied**

T.M.A. Pai Foundation v. State of Karnataka (2002) 8 SCC 481, The Supreme Court in this case emphasized the autonomy of educational institutions while recognizing the regulatory role of bodies like the UGC. The court held that UGC regulations are binding and must be followed by universities to ensure quality and standards in education. This decision reinforced the mandatory nature of UGC regulations on statutory universities.

Moreover, in the case of University Grants Commission v. P.K. Mukherjee (2002) 4 SCC 211, The court reiterated the mandatory nature of UGC regulations on universities. The judgment emphasized that universities established under a statute are subject to UGC regulations, and any deviation would be against the principles of maintaining uniformity and excellence in education.

Further judicial pronouncements, such as the Islamic Academy of Education v. State of Karnataka, (2003) 6 SCC 697 & Bhupendra Nath Hazarika v. State of Assam, (2013) 11 SCC 706 reiterated the significance of adhering to UGC regulations. The court emphasized that the autonomy of educational institutions does not grant them absolute freedom from regulatory mechanisms, especially those aimed at maintaining academic excellence and integrity. These decisions collectively reinforce the mandatory nature of UGC regulations.

On 21st October 2022, in the case of Professor (Dr.) Sreejith P.S. v. Dr. Rajasree M.S. & Ors. 2022 Live Law (SC) 871

the Apex Court in a Division Bench comprising of Justice M.R. Shah and Justice C.T. Ravikumar opined that solely because the subsequent amendment has not been specifically adopted 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's Universities.

Most recently SC in *Mehar Fatima Husain v. Jamia Millia Islamia & ors* (2020) 3 SCC 373, Made it more clear that the University Grants Commission (UGC) regulations are binding on the Universities, and the Supreme Court directed the reinstatement of the teachers at Jamia Millia Islamia ("University") on a permanent basis who were denied regularization by the University even after UGC's letter to University directing regularization of the teachers who were selected through a regular selection process and possessed required qualifications.

Justice Abhay S. Oka emphasized on the binding nature of UGC regulations while citing the case of *Kalyani Mathivanan v. K.V. Jeyaraj j& ors* (2021) 2 SCC 160, where in para 27 the court observed as follows: "we hold that the UGC Regulations though a subordinate legislation has binding effect on the universities to which it applies; and consequence of failure of the university to comply with the recommendations of the Commission, UGC may withhold the grants to the university made out of the fund of the Commission".

Relaying on the ratio of *Kalyani Mathivanan*, the Hon'ble court in the present case quoted that "It is true that the letter dated 25th June 2019 addressed by the UGC has used the word 'may'. However, considering the statutory position of the UGC, there was no reason for the University not to follow what the UGC stated."

*University of Kerala v. Council of Principals of Colleges*, (2010) 10 SCC 209, The Apex court has held that emphasized the importance of adhering to UGC norms, indicating that while state universities have autonomy, they must also comply with the standards set by the UGC to ensure quality.

*The State of Maharashtra v. D. B. S. Jain College*, (2018) 4 SCC 96, The Supreme Court reinforced the idea that UGC regulations are binding on state universities, highlighting that the overarching goal of maintaining educational standards must prevail over local administrative autonomy.

*Rajendra Singh v. State of Uttar Pradesh* (2021) 9 SCC 541, The Court provided further clarity by asserting that non-compliance with UGC regulations could lead to legal consequences, emphasizing their mandatory nature.

In the case of *Gambhiran K. Gadhi v. The State of Gujarat* (2022) 3 SCC 143, The Supreme Court addressed the interpretation of UGC regulations, specifically whether they are mandatory or directory. The court concluded that UGC regulations are indeed mandatory, meaning that educational institutions must comply with them strictly.

### Analysis of the Judgments

The cumulative effect of these judgments suggests a trend towards recognizing UGC regulations as mandatory. The Supreme Court has consistently held that while state universities retain a degree of autonomy, compliance with UGC standards is essential to uphold the integrity of higher education.

### Mandatory v. Directory

**Mandatory Nature:** The judicial interpretations point towards a mandatory understanding of UGC regulations. Non-compliance could undermine educational standards and lead to adverse legal implications for state universities.

**Directory Nature:** Some argue that since state universities are governed by their own statutes, UGC regulations may be seen as directory, allowing for flexibility. However, this perspective appears to be diminishing in light of judicial trends.

**State autonomy v. Ugc regulations:** State universities possess the authority to manage their academic affairs, including the appointment of faculty. However, this autonomy is not absolute and must be exercised within the framework set by the UGC. The court has clarified that autonomy does not equate to a free pass from compliance with regulatory standards. The Supreme Court has sought a balance between the autonomy of state universities and the necessity of adhering to UGC regulations. This balance is critical for maintaining educational standards and ensuring that institutions do not deviate from established norms, which could compromise the quality of education.

### Implications on higher education

- **Quality Assurance:** Mandatory compliance with UGC regulations ensures a consistent quality of education across state universities, which is vital for maintaining academic standards.
- **Legal Certainty:** Clarity in the mandatory nature of UGC regulations reduces ambiguity for universities regarding faculty recruitment and qualifications, leading to a more streamlined process.
- **Uniformity in Standards:** Adherence to UGC guidelines helps maintain uniformity in educational standards across different states, benefiting students and the overall education system.
- **Accountability:** Institutions are held accountable for their hiring practices, ensuring that qualified individuals are appointed to teaching positions, which ultimately enhances the learning experience for students.
- **Impact on Autonomy:** While state universities have the freedom to govern themselves, this freedom is now balanced with the need for compliance with national standards, ensuring that autonomy does not lead to a decline in educational quality.

### Suggestions and recommendations

1. **Policy Clarification:** Recommend that the UGC provide clear, detailed guidelines on which regulations are mandatory and which may have flexibility, reducing ambiguity for state universities.
2. **Training and Capacity Building:** Suggest the establishment of training programs for university administrators and faculty on UGC regulations, ensuring all stakeholders understand their responsibilities and the importance of compliance.

- 3. Enhanced Compliance Mechanisms:** Advocate for the development of robust compliance monitoring systems that can periodically review and evaluate adherence to UGC regulations in state universities.
- 4. Legal Support Framework:** Propose the creation of a legal support framework to assist universities in navigating compliance with UGC regulations, potentially involving legal clinics or advisory boards.
- 5. Stakeholder Engagement:** Encourage regular consultations between the UGC, state universities, and other stakeholders to foster dialogue on regulatory practices and address challenges collaboratively.
- 6. Increased Funding for Compliance:** Recommend that the government allocate specific funding to state universities to support the implementation of UGC regulations, particularly in areas such as faculty recruitment and training.
- 7. Future Research Directions:** Identify key areas for future research, such as the long-term effects of compliance with UGC regulations on educational outcomes or institutional reputation.
- 8. Public Awareness Campaigns:** Suggest initiatives to raise public awareness about the importance of UGC regulations in ensuring quality education, which could include workshops, seminars, and online resources.

## Conclusion

These judicial pronouncements underscore the legal obligation of statutory universities to adhere to UGC regulations. Failure to comply with these regulations can lead to legal consequences, including the withdrawal of grants and recognition by the UGC. It is crucial to note that the UGC's regulations are not mere guidelines but have legal backing. The UGC Act and relevant judicial pronouncements affirm the mandatory nature of these regulations for statutory universities. By complying with these regulations, universities contribute to the overall enhancement of the quality and credibility of higher education in India. In conclusion, UGC regulations are mandatory for statutory universities, as established by the UGC Act and supported by a plethora of judicial pronouncements. These regulations play a vital role in maintaining standards, ensuring uniformity, and upholding the quality of higher education. Compliance with UGC regulations is not only a legal obligation but also a crucial aspect of fostering excellence in the academic arena. In conclusion, the analysis indicates that UGC regulations regarding the appointment of teaching positions in state universities are indeed mandatory. Recent Supreme Court judgments affirm this position, emphasizing the importance of adherence to these regulations in promoting quality education. As the higher education landscape continues to evolve, the need for standardized regulatory frameworks remains paramount, ensuring that state universities contribute effectively to the nation's educational goals.

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