

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 5608 of 2022

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RAJENDRA AMULAKH KHIMANI

Versus

THE UNIVERSITY GRANTS COMMISSION

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Appearance:

MR. G.M.JOSHI, SENIOR COUNSEL WITH MS HARSHAL N
PANDYA(3141) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV

Date : 22/03/2022

ORAL ORDER

1 By an order dated 22.03.2022, in the first session, since the registry was unclear on the roster where the matter should be assigned to, by virtue of following order, the matter was referred to the registry for placing it before the appropriate Court. Accordingly, the matter is listed before this Court. The order read thus:

“Heard Mr. Gautam Joshi, learned Senior Advocate appearing with Ms. Harshal Pandya, learned advocate for the petitioner.

It seems that the Registry has some confusion whether this matter be treated as education matter or service matter. Mr. Joshi would submit that since the relief claimed in the petition is relating to removal of a Vice Chancellor who according to Regulation 10.12 of the UGC [Institutions Deemed To Be Universities] Regulations, 2019 is a whole time salaried employee of the University, this matter be treated as service matter.

However, considering the apprehension on part of the Registry, Registry to verify and place this matter before the appropriate court at 2.30 pm today as Mr. Joshi states that urgent orders are necessary in this matter.”

2 The prayer in the petition is that the decision taken by the University Grants Commission (“UGC”for short) as reflected in the minutes of the 554th meeting held on 25.11.2021 directing the Chancellor to remove the petitioner as Vice Chancellor with immediate effect be declared as illegal and in breach of Regulation 10.12.2.E of the UGC (Institutions Deemed To Be Universities) Regulations, 2019 as bad.

3 Mr.G.M.Joshi, learned Senior Advocate, would draw the attention of this Court to the Minutes of the 554th Meeting of the UGC held on 25.11.2021. Agenda Item 2.05 reads as under:

“2.05 To consider the report of the UGC Committee constituted to look into the issue of the appointment of Dr.Rajendra Khimani as Vice-Chancellor of Gujarat Vidyapith (Deemed to be University), Ahmedabad, Gujarat.

The Commission considered the Report of the UGC Committee and observed that : I) there are procedural lapses in the appointment of Dr.Rajendra Khimani as Vice-Chancellor of Gujarat Vidyapith (Deemed to be University) and ii) the Fact Finding Committee of UGC constituted separately has found that Dr.Rajendra Khimani was also responsible for certain lapses in the administrative and financial functioning of the Gujarat Vidyapith as Registrar during the period from 01.04.2004 to 30.04.2019.

In view of the above and in accordance with the provisions stipulated in Clause 10.12.3.E of the UGC (Institutions Deemed to be Universities) Regulation, 2019, the Commission resolved to direct the Chancellor of Gujarat Vidyapith (Deemed to be University) to remove Dr.Rajendra Khimani as Vice-Chancellor with immediate effect. The Commission further resolved that failing to comply with the directions of the Commission would attract penal action in accordance with the UGC Act, 1956 and the UGC (Institutions Deemed to be Universities) Regulations, 2019, including that of withholding of grants.”

4 Reading the aforesaid Minutes of the Meeting would indicate that

based on a report of the UGC Committee, which was constituted to look into the issue of issuance appointment order, the Committee has found that there are procedural lapses in the appointment order as Vice-Chancellor of the Gujarat Vidyapith. And that secondly, the Fact Finding Committee of the UGC separately constituted has found that the petitioner was also responsible for certain lapses in the administrative and financial functioning of the Gujarat Vidyapith as Registrar during the period from 01.04.2004 to 30.04.2019.

5 Inviting the Court's attention to the Regulation 10.12.2 of the Regulations, Mr.Joshi, learned Senior Counsel, would submit that the Vice-Chancellor is a whole time salaried officer of the institution. Provisions of Regulation 10.12.3.E(f) provides for powers for removal of the Vice-Chancellor if in the perception of the UGC he does not possess the qualification as required under the regulations. The regulation, further indicates that where the report of the Inquiry Committee confirms the ineligibility or procedural violations, or impropriety, as the case may be, the Commission shall direct the Chancellor to remove the Vice-Chancellor after following the due process. Reading the Minutes of the Meeting that are reproduced hereinabove, it can safely be inferred that the UGC has issued a mandate to the respondent No.2, University, that the petitioner be removed as Vice-Chancellor with immediate effect. It further provides that if the University fails to comply with the directions, the UGC will be compelled to withhold the grant of the University.

6 Prima facie, this indicates that the respondent No.2 University is left with no choice but to remove the Vice-Chancellor without "following the due process" which would atleast require following the basic principles of natural justice.

7 Mr.Mehul Vakharia, learned advocate, appears on an advance copy on behalf of the University and states that pursuant to the directions of the UGC, apart from other agendas at the meeting which is in progress is the agenda in context of the mandate given by the UGC.

8 Apparently, looking to the mandate of the UGC in its meetings, the University is left with nothing but fait accompli inasmuch as, take a decision to remove the Vice-Chancellor or face withholding of grants.

9 Issue Notice to the respondents, returnable on 05.04.2022. The petitioner is permitted to serve the respondents by direct service in addition to RPAD.

In the meantime, no coercive steps pursuant to the Minutes of the 554th meeting of the UGC in context of the removal of the petitioner as Vice-Chancellor be taken.

It is clarified that in the meeting that is in progress as stated by Mr.Vakharia, no decision shall be taken pursuant to the directions of the UGC in its 554th meeting dated 25.11.2021. Direct service today is permitted.

(BIREN VAISHNAV, J)

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