

HIGH COURT OF KERALA**Bench : Honourable Mr. Justice Mohammed Nias C.P.****Date of Decision: 5th April 2024**

WP(C) No. 335 of 2023 & WP(C) No. 703 of 2023

- 1. Dr. T. Muhammedali**
 - 2. Prof. Dr. N. Prasantha Kumar.Petitioners**
- Versus

- 1. Dr. M.K. Jayaraj, Dr. M.V. Narayanan**
- 2. The Chancellor, University of Calicut, Sree Sankaracharya University of Sanskrit**
- 3. University of Calicut, Sree Sankaracharya University of Sanskrit.Respondents**

Legislation and Rules:

UGC Regulations 2018

Subject: Challenging the appointment of the Vice Chancellors of the University of Calicut and Sree Sankaracharya University of Sanskrit for non-compliance with UGC Regulations 2018.

Headnotes:

Appointment of Vice-Chancellors – Challenge through writ petitions seeking quo warranto – Allegation of violation of UGC Regulations 2018 – Interim orders restraining removal pending Chancellor’s decision – Chancellor subsequently declared appointments void ab initio – Vice Chancellor of Calicut University filed WP challenging Chancellor’s decision – Interim stay granted – Vice Chancellor of Sree Sankaracharya University not granted stay – Subsequent developments render WP challenging appointment of Vice Chancellor of Sree Sankaracharya University infructuous – Maintainability of writ petition – Writ of quo warranto not considered in light of Chancellor’s decision – Issue regarding public interest litigation and applicability of High Court Rules left open – Writ petitions closed.

Referred Cases:

- Rajesh Awasthi v. Nand Lal Jaiswal [(2013) 1 SCC 501]

Representing Advocates:

For Petitioners: Nisha George, George Poonthottam (Sr.), A.L.
Navaneeth Krishnan, Sidharth R. Wariyar.

For Respondents: Amal Kasha, Sri.P.C.Sasidharan, SC, Calicut
University, S.Prashanth, T.B. Hood, M.Isha.

MOHAMMED NIAS C.P., J

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WP(C)Nos.335 & 703 of 2023
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Dated this the 5th day of April, 2024

JUDGMENT

WP(C) No.703/2023 is filed challenging the appointment of the first respondent Dr. M.V. Narayanan as Vice Chancellor of Sree Sankaracharya University of Sanskrit.

2. W(C)No.335/2023 is filed challenging the appointment of the first respondent Dr.M.K.Jayaraj as the Vice Chancellor of the University of Calicut.

3. Both these writ petitions are filed seeking a writ of quo warranto on the ground that their appointments were made in violation of the requirements of the law, in particular, the UGC Regulations 2018 as interpreted by the judgments of the Supreme Court of India. These writ petitions were preferred at a time when the Chancellor had issued notices asking them to show cause as to why their appointments should not be declared as void ab initio being in violation of the UGC Regulations 2018. The Chancellor had not taken a decision and they were continuing on the strength of the interim orders passed by this Court.

4. In response to the prayers in the writ of quo warranto, the respondents had taken up the contentions including the maintainability of the petition and also reasons to sustain their appointments. It was further urged that the writ petitions must be taken as a species of Public Interest Litigation and therefore an affidavit in terms of 146 A of the High Court Rules must be complied with and the writ petition filed without the same must be dismissed.

5. Thereafter, by the judgment in the writ petitions filed by the Vice Chancellors as WP(C)Nos.35005 of 2022 and connected cases, this Court vide judgment dated 25.2.2024 had directed the Chancellor to hear the parties and take a decision on the question of the legality of their appointments and continuance as Vice Chancellors. Pursuant to the said direction, orders were passed on 7.3.2024 by the Chancellor holding that the appointments of the Vice Chancellors were void ab initio and directed them to vacate the office forthwith.

6. Challenging the said decision of the Chancellor, the Vice Chancellor of the Calicut University Dr M.K.Jayaraj filed WP(C)No.10520/2024 while the Vice Chancellor of the Sree Sankaracharya University of Sanskrit Dr M.V.Narayanan filed WP(C)No.10667/2024. Operation of the order of the Chancellor was stayed in WP(C)No.10520/2024, thus enabling Dr.M.K.Jayaraj (first respondent in WP(C)No. 335/2023) to continue. The order of the Chancellor removing Dr. M.V. Narayanan (first respondent in WP(C)No.703/2023) as Vice Chancellor of the Sree Sankaracharya University of Sanskrit was not stayed. Because of the above developments, respondent No.1 in WP(C)No.703/2023 is no longer the Vice Chancellor, leaving nothing to be considered in WP(C)No.703/2023.

7. As regards the question as to whether the writ petition is maintainable, the same is no longer *res integra* [See in this Connection the judgment of the Hon'ble Supreme Court in **Rajesh Awasthi v. Nand Lal Jaiswal** [(2013) 1 SCC 501]. Any appointment to a public office made even in contravention of the statutory regulations can be considered in a writ of quo warranto. The locus in such cases or the aspect of delay and laches also has to be liberally construed.

8. Though the writ petition seeking quo warranto is maintainable, in the wake of the order passed by the Chancellor as stated above and the orders in the writ petitions filed by the respondents in these cases, a writ of quo warranto need not be considered in the facts of the case. The question as to whether it must be treated as Public Interest Litigation or whether the requirement of the applicability of 146A

of the High Court Rules is not being decided as it has become academic.

The contentions raised by the parties in that regard are left open.

In view of the above, both these writ petitions are closed.

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