

WMP No. 20576 of 2025 in
W.P.No.18374 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-05-2025

CORAM

THE HONOURABLE MR JUSTICE G. R. SWAMINATHAN

AND

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

WMP NO. 20576 OF 2025 in

WP NO. 18374 OF 2025

K.Venkatachalapathy @ Kutty
S/o.Karuppasamy, Kmf Complex, Bhel Amorses
Colony 1st Street, Opposite To District Court,
Palayamkottai, Thirunelveli District

... Petitioner

Vs

1. The State Of Tamilnadu
Rep By Its Chief Secretary,
Government Of Tamilnadu, Secretariat,
Chennai-600 009
- 2.The Union Of India
Rep By Its Secretary To Government,
Ministry Of Home Affairs, North Block,
Central Secretariat, New Delhi-110 001
- 3.The University Grants Commission
Bahadur Shah Zafar Marg, New Delhi-110 002
- 4.The Secretary To Government
Higher Education Department,
Law Department, Fort St.George,
Chennai-600 009
- 5.The Secretary To His Excellency
The Governor Of Tamilnadu, Raj Bhavan,
Chennai



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6.The Secretary To Government Of India
Ministry Of Human Resource Development,
North Block, Central Secretariat, New Delhi-
110 001

... Respondents

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PRAYER

Writ Miscellaneous Petition to grant an order of interim stay the operation and all further proceedings under the facts published by the Tamilnadu Government in its Government Gazette bearing No.167 dated 11.4.2025 pending disposal of the above writ petition

PRAYER in W.P.No.18374 of 2025

Writ Petition under Article 226 of the Constitution of India for a Writ of Declaration declaring that the following acts i.e(i) Act No.14 of 2025 -The Tamilnadu Fisheries University (Amendment)Act 2020(ii) Act No.15 of 2025-The Tamilnadu Veterinary and Animal Sciences University(Amendment) Act 2020 (iii)Act No.16 of 2025-The Tamil Nadu Universities Laws(Amendment)Act 2022 (iv)Act No.17 of 2025 The Tamilnadu Dr.Ambedkar Law University (Amendment)Act 2022 (v)Act No.18 of 2025-The Tamilnadu Dr.M.G.R.Medical University, Chennai (Amendment)Act 2022(vi)Act No.19 of 2025-The Tamilnadu Agricultural University (Amendment)Act2022, (vii)Act 20 of 2025-The Tamilnadu university (Second Amendment)Act 2022 (viii)Act No.21 of 2025-The Tamilnadu Veterinary and Animal sciences University (Amendment)Act 2023 published by the Tamilnadu Government in its Government Gazette bearing No.167 dated 11.4.2025 in so far as it replaces the expression Chancellor by the expression Government and the provision that inserts provision for Removal of Vice Chancellor as inconsistent to the provisions of UGC Regulations and UGC Act and violative of the Tamilnadu Legislative Assembly Rules illegal null and void.



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For Petitioner : Mr.Dama Seshadri Naidu, Senior Counsel
for Mr.V.R.Shanmuganathan

For Respondents : Mr.P.S.Raman, Advocate General
assisted by Mr.Edwin Prabakar
State Government Pleader - for R1

Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by Ms.V.Sudha- for R3

Mr.P.Wilson, Senior Counsel
for R4

ORDER

(Order of the Court was made by G.R.Swaminathan J.)

The petitioner herein is a practising lawyer. He filed this writ petition in public interest questioning the constitutional validity of the impugned Acts amending some of the provisions of the following Acts:

1. The Tamil Nadu Fisheries University Act, 2012.
2. The Tamil Nadu Veterinary and Animal Sciences University Act, 1989.
3. The Madurai-Kamaraj University Act, 1965
4. The Anna University Act, 1978
5. The Bharathiar University Act, 1981
6. The Bharathidasan University Act, 1981
7. The Mother Teresa Women's University Act, 1984
8. The Alagappa University Act, 1985



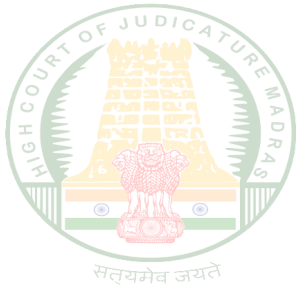
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9. The Manonmaniam Sundaranar University Act 1990
10. The Periyar University Act, 1997
11. The Tamil Nadu Open University Act, 2002
12. The Thiruvalluvar University Act, 2002
13. The Tamil Nadu Teachers Education University Act, 2008
14. The Annamalai University Act, 2013
15. The Tamil Nadu Dr.Ambedkar Law University Act, 1996
16. The Tamil Nadu Dr.M.G.R.Medical University Act, 1987
17. The Tamil Nadu Agricultural University Act, 1971
18. The Tamil University Act, 1982

2. By the impugned amendments, the power to appoint Vice- Chancellors for the aforesaid Universities has been taken away from the Chancellor and vested with the Government.

3. The learned Senior Counsel appearing for the petitioner submitted that the impugned amendments suffer from the vice of repugnancy since they are in direct conflict with Regulation 7.3 of the University Grants Commission Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018. According to him, the issue raised in this writ petition is no longer



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res integra. He argued that the Hon'ble Supreme Court had already upheld the primacy of UGC Regulations over State Laws in **(2022) 5 SCC 179 (Gambhirdhan K Gadhvi -vs- State of Gujarat, (2022) 16 SCC 318 (State of West Bengal -vs- Anindya Sundar Das and Others), (2023) 17 SCC 338 (Professor Sreejith -vs- Dr.Rajashree MS and Others)** and that therefore, the impugned amendments are unconstitutional. He pointed out that pursuant to the impugned amendments, search committees had been constituted for filling up the vacancies in the post of Vice Chancellor in respect of some of the Universities. Applications had been invited from eligible candidates. His case is that if the operation of the impugned amendments is not suspended, appointments would be made and that was the urgency for moving this Court during its Vacation Sitting.

4. The writ petition was listed for hearing on 14.05.2025 and was admitted. Even when the matter was taken up for admission, the learned Advocate General appearing for the State of Tamil Nadu as well as Shri.P.Wilson learned Senior Counsel appearing for the Higher Education Department entered appearance. We put them on notice and informed them that the petition for interim relief will be taken up on 21.05.2025.

5. Today when the case was taken up, the learned Advocate General as well as Shri P.Wilson, learned Senior Counsel submitted that there was no pressing



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urgency for the Vacation Court to take up the matter. They sought further time to file counter affidavit. The Secretary to Government, Higher Education Department, State of Tamil Nadu filed a memo setting out the following objections:

- (a) The Public Interest Litigation is politically motivated.
- (b) It challenges the verdict of the Hon'ble Supreme Court rendered on **08.04.2025 in State of Tamil Nadu -vs- Governor of Tamil Nadu (Writ Petition (Civil) No.1239 of 2023)**
- (c) It is not fit to be heard during Vacation.
- (d) The vires of nine independent amendment Acts cannot be challenged in one writ petition.
- (e) The concerned Universities have not been made parties.
- (f) Sufficient time should be granted for filing counter affidavit.
- (g) The State has filed Transfer Petition before the Supreme Court and hence the present proceedings should be deferred.

6. Shri Wilson, the learned Senior Counsel further contended that mention was made before the Hon'ble Supreme Court seeking urgent listing of the Transfer Petition and that the Hon'ble Supreme Court indicated that High Court may be apprised of this fact. Copy of the letter dated 19.05.2025 addressed to the fourth respondent by the Counsel on Record was also placed before us.



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7. The learned Advocate General does not dispute the factual position that Government Orders have been issued constituting search committees and that the search committees have issued notifications inviting applications for the post of Vice Chancellor for some of the Universities. Advertisements have been issued and copies of the same have been enclosed in the typed set of papers. The selection process has commenced. We wanted to know whether the process could be put on hold till the stay petition is disposed of. The learned Advocate General was unwilling to give any such undertaking.

8. It is at this stage, the learned Senior Counsel for the petitioner insisted that the petition for interim relief may be taken up for hearing. He vehemently contended that if the impugned amendment Acts are not stayed, an unconstitutional and patently illegal selection process would be finalized. He clarified that he will not enter into any factual aspects and confine himself to pure questions of Constitutional Law.

9. The learned Advocate General asserted that the subject Universities are not receiving any financial assistance from the UGC and that the 2018 Regulations have been adopted with a caveat. He drew our attention to G.O.Ms.No.5, Higher Education Department dated 11.01.2021 and claimed that Regulation 7.3 of the UGC Regulations had not been adopted. His specific contention is that the 2018



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Regulations are a piece of subordinate legislation and that they do not form part of the parent statute and that they cannot prevail over the plenary legislation made by the State. He placed particular reliance on the decision of the three Judges Bench of the Hon'ble Supreme Court reported in **(2013) 8 SCC 633 (Jagdish Prasad Sharma and Others -Vs- State of Bihar and Others)**. He emphasized that the decisions relied on by the learned Senior Counsel for the petitioner were rendered by Benches of two Judges. His submission is that the decision of the Hon'ble Supreme Court rendered in **(2015) 6 SCC 363 (Kalyani Mathivanan -vs- KV Jeyaraj and Others)** supports the stand of the State Government. He drew our attention to the fact that the constitutionality of the UGC Regulations have been challenged by the State Government in a Writ Petition under Article 32 of the Constitution and that it is pending. Reiterating his request for grant of time, he called upon this Court to defer taking a decision on interim relief. Relying on the decision reported in **(2024) 9 SCC 538 (Dr.Jaya Thakur and Others -vs- Union of India and Others)** he contended that since the impugned Acts carry the presumption of constitutionality, we must show judicial restraint.

10. Shri P.Wilson reiterated in stronger terms the objections catalogued in the memo filed by the Secretary to Government, Higher Education Department. He demanded that the case should be adjourned. He insisted that we must record the fact that we had rejected his requested for adjournment.



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11. Shri AR.L.Sundaresan, learned Additional Solicitor General of India, appearing for UGC supported the stand of the writ petitioner. He made it clear that the State Universities have been very much in receipt of funds from UGC and that the 2018 Regulations had been adopted by the State Government.

12. We carefully considered the rival contentions. The following issues arise for consideration:

- (a) Whether the impugned amendments are glaringly unconstitutional ?
- (b) Whether the High Court is competent to suspend the operation of the impugned amendments ?
- (c) Whether this Vacation Bench is denuded of the power to grant interim relief?

13. Before we answer the issues one by one, it is necessary to refer to the relevant constitutional and statutory provisions:

Entry 66 of the Union List in the VII Schedule of the Constitution is as follows:

Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.



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Entry 32 of the State List is as follows:

Incorporation, regulation and winding up of corporation, other than those specified in List I and Universities; Unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

Entry 25 of the Concurrent List is as follows:

Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

Article 254 of the Constitution is as follows

254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States

(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with



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respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State: Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

14. Sections 2(f) and 26(f), (g) and (h) and 28 of the University Grants

Commission Act, 1956 read as follows:

2(f) : *"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 recognized by the Commission in accordance with the regulations made in this behalf under this Act.*

26 (f) defining the minimum standards of instruction for the grant of any degree by any University;

(g) regulating the maintenance of standards and the co-ordination of work or facilities in Universities.

(h) regulating the establishment of institutions referred to in clause (ccc) of section 12 and other matters relating to such institutions;



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28. [Laying of rules and regulations before Parliament

.-Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.]

15. Regulation 7.3 of the Regulation 7.3 of the University Grants Commission Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 reads as follows:

7.3. VICE CHANCELLOR:

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



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organisation with proof of having demonstrated academic leadership. 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 cumSelection Committee shall be nominated by the Chairman, University Grants Commission, for selection of Vice Chancellors of State, Private and Deemed to be Universities. 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.

16. By the impugned Acts, the provisions in the principal Acts pertaining to the appointment of Vice Chancellor in the aforementioned Universities had been amended by substituting the word "Government" for the word "Chancellor" wherever it occurs, and for the word "he" occurring in the provisions, the word "they" had



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been substituted. In other words, the power of the Chancellor / Governor of the State to appoint the Vice Chancellor from out of the names submitted by the search committees had been taken away and this power has been conferred on the State Government.

17. The learned Advocate General and Shri P.Wilson, learned Senior Counsel agree that the impugned amendments run counter to the Regulation 7.3 of the UGC Regulations, 2018. Their stand is that the plenary legislation made by the State will prevail over Regulation 7.3. They rely on the decisions reported in **(2013) 8 SCC 633 (Jagdish Prasad Sharma and Others)** and **(2015) 6 SCC 363 (Kalyani Mathivanan -vs- KV Jeyaraj)**.

18. In our respectful view, the Hon'ble Supreme Court had already settled the debate. In **(2022) 5 SCC 179 (Gambhirdhan K Gadhvi -vs- State of Gujarat, (2022))**, the Hon'ble Supreme Court held as follows:

" 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



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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.

19. In 16 SCC 318 (State of West Bengal -vs- Anindya Sundar Das and Others),

" 63.In view of the decision in Gambhirdan K. Gadhvi [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813] , even if the provisions of the Act allowed the appointment of the Vice-Chancellor by the State Government, it would be in violation of the UGC Regulations. The Regulations become part of the statute framed by Parliament and will prevail."

20. In (2023) 17 SCC 338 (Professor Sreejith -vs- Dr.Rajashree MS and Others), the Hon'ble Supreme Court held as follows:

" 18.The short question, which is posed for consideration of this Court is : whether while making the appointment of Respondent 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 (the State Act)?



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19. *The other question which is posed before this Court for consideration is : whether the Search Committee constituted to recommend the name of Respondent 1 as Vice-Chancellor of the University can be said to be duly constituted Committee?*

20. *Identical question came to be considered by this Court in Gambhirdan K. Gadhvi [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813] and Kalyani Mathivanan [Kalyani Mathivanan v. K.V. Jeyaraj, (2015) 6 SCC 363] . 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 Gambhirdan K. Gadhvi [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813] . 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*



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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.

21. The observations made in the relevant paras are as under : (Gambhirdan case [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813] , SCC pp. 196-198 & 206, paras 20-23, 25-26 & 50)

"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 SP University—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.

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



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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.

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".

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 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.

22. By the said letter, the Government of India directed that there shall be only three designations in respect of teachers in the



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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.

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 2010 Regulations 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.

24. *The decision of this Court in Gambhirdan K. Gadhvi [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813] has been subsequently followed by this Court in the recent decision of this Court in Anindya Sundar Das [State of W.B. v. Anindya Sundar Das, (2022) 16 SCC 318 : 2022 SCC OnLine SC 1382] while considering the appointment of the Vice-Chancellor of Calcutta University. In the said decision, it is also observed and held in para 56 that in view of the decision in Gambhirdan K. Gadhvi [Gambhirdan K. Gadhvi v. State of Gujarat, (2022) 5 SCC 179 : (2022) 1 SCC (L&S) 813], even if the provisions of the State Act allowed the*



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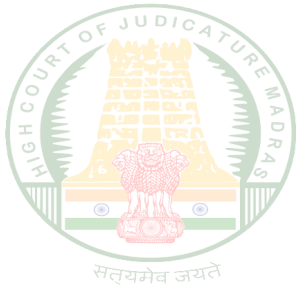
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appointment of the Vice-Chancellor by the State Government, it would have to be as per the UGC Regulations and any appointment of Vice-Chancellor in violation of the UGC Regulations shall be void ab initio. It is further observed that the UGC Regulations shall become part of the statute framed by Parliament and, therefore, shall prevail.

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.

25. 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 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 the UGC Regulations are specifically adopted by the State cannot be accepted."

21. A mere look at the aforesaid decision would go to show that the Hon'ble Supreme Court was fully cognizant of what was laid down in **Kalyani Mathivanan** and thereafter proceeded to hold that UGC Regulations will have primacy over State Legislations in the matter of appointment of Vice Chancellors for the Universities. **Sreejith -vs- Rajshri** was followed in **Narendra Singh Bhandari -vs- Ravindra Jugran (2022) 17 SCC 679**.



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22. The submission made by the Additional Solicitor General of India appearing for the UGC puts it beyond the pale of any doubt that the State Universities have been in receipt of financial assistance from UGC. It is also seen that the 2018 Regulations have been adopted by the State of Tamil Nadu vide G.O.Ms.No.5 dated 11.01.2021. In fact, **Sreejith's** decision in Paragraph 25 makes it clear that even if Regulations have not been adopted, Clause 7.3 of the UGC Regulations will have to be followed in the matter of appointing the Vice Chancellors.

23. When repugnancy between the impugned amendment Acts and the UGC Regulation is obvious and admitted, it is our judicial duty to apply the law declared by the Hon'ble Supreme Court in as many as four recent decisions. It is true that the State of Tamil Nadu has filed a Writ Petition under Article 32 of the Constitution of India questioning the validity of the 2018 Regulations. The Writ Petition is said to be pending. Admittedly, no interim order has been obtained. When the Hon'ble Supreme Court has not suspended the operation and applicability of Regulation 7.3 of the 2018 Regulations, we have to proceed on the footing that they are in force.

24. Reliance on **Jagdish Prasad Sharma vs State of Bihar (2013) 8 SCC**



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633 is misplaced. Paragraph 72 of the said decision reads as follows:

*"72..... Education now being a List III subject, the State Government is at liberty to frame its own laws relating to education in the State and is not, therefore, bound to accept or follow the Regulations framed by UGC. It is only natural that if they wish to adopt the Regulations framed by the Commission under Section 26 of the UGC Act, 1956, **the States will have to abide by the conditions as laid down by the Commission.**"*

25. Having adopted the 2018 UGC Regulations, the State cannot adopt a procedure that militates against the said Regulations in the matter of appointment of Vice Chancellors. The said decision proceeds on the premise that the Regulations that were the subject matter in the said decisions were only a delegated legislation and hence have to yield to the plenary jurisdiction of the State Government under List III Entry 25. In the case on hand, the Regulations in question are a part of the parent Statute itself. Secondly, Entry 25 itself reads that any legislation made in terms of the Entry would be subject to provisions of Entry 66 of List I. The subject UGC Regulations fall under Entry 66 of List I. Therefore, the aforesaid decision relied on by the learned Advocate General is of no assistance to them.

26. We are clearly of the view that the impugned amendments suffer from the vice of repugnancy and run counter to the line of decisions of the Hon'ble Supreme



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Court mentioned earlier.

27. Having come to such a conclusion, the next question that arises for consideration is whether we are competent to suspend the operation of the impugned amendments to the extent that they are in conflict with Regulation 7.3. Again, this issue has been settled by the Hon'ble Supreme Court in a catena of decisions. In **Dr.Jaishri Laxmanrao Patil -vs- State of Maharashtra (2021) SCC 785**, it was held as follows:

"11. It is no doubt true that the Act providing reservations has been upheld by the High Court and the interim relief sought by the appellants would be contrary to the provisions of the Act. This Court in Health for Millions v. Union of India [Health for Millions v. Union of India, (2014) 14 SCC 496 : (2015) 1 SCC (Cri) 422] held that courts should be extremely loath to pass interim orders in matters involving challenge to the constitutionality of a legislation. However, if the Court is convinced that the statute is ex facie unconstitutional and the factors like balance of convenience, irreparable injury and public interest are in favour of passing an interim order, the Court can grant interim relief. There is always a presumption in favour of the constitutional validity of a legislation. Unless the provision is manifestly unjust or glaringly unconstitutional, the courts do show judicial restraint in staying the applicability of the same [See Bhavesh D. Parish v. Union of India, (2000) 5 SCC 471] . It is evident from a perusal of the above judgment that normally an interim order is not passed to stultify statutory provisions. However, there is no absolute rule to restrain interim orders being passed when an enactment is ex facie unconstitutional



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or contrary to the law laid down by this Court.

12. *The orders relied upon by the learned counsel for the State of Maharashtra no doubt reveal that in those cases, the grant of interim relief was left open for consideration by the larger Bench. But there is no bar per se for the referring Bench to pass interim orders while sending matters to a larger Bench. In Ashoka Kumar Thakur (8) v. Union of India [Ashoka Kumar Thakur (8) v. Union of India, (2007) 4 SCC 361 : 2 SCEC 875] , K.S. Puttaswamy (Aadhaar/Privacy-3 J.) v. Union of India [K.S. Puttaswamy (Aadhaar/Privacy-3 J.) v. Union of India, (2015) 8 SCC 735] , M. Nagaraj v. Union of India [M. Nagaraj v. Union of India, (2021) 2 SCC 798 : 2002 SCC OnLine SC 35] , S.V. Joshi v. State of Karnataka [S.V. Joshi v. State of Karnataka, (2012) 7 SCC 41, para 9 : (2012) 2 SCC (L&S) 329 : 5 SCEC 851] , P.A. Inamdar v. State of Maharashtra [P.A. Inamdar v. State of Maharashtra, (2004) 8 SCC 139] and Modern Dental College & Research Institute v. State of M.P. [Modern Dental College & Research Institute v. State of M.P., (2004) 8 SCC 213] , this Court passed interim orders while referring the matters to a larger Bench. In view of the above, we are of the considered opinion that the referring Court is not disabled from passing interim orders merely because the matter is referred to a larger Bench.*

15. *After observing that Article 16(4) should be balanced against the guarantee of equality enshrined in Article 16(1), which is a guarantee held out to every citizen, it was categorically held that reservations contemplated in Clause (4) of Article 16 should not exceed 50%. The relaxation of the strict rule of 50% can be made in certain extraordinary situations. People living in far flung and remote areas not being in the mainstream of national life should be treated in a different way. In view of the conditions peculiar to them they are entitled to be given relaxation. It was made clear that extreme caution has to be exercised and a special case made out for relaxation of the rule of 50%. Applying the law laid down by this Court*



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in Indra Sawhney [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1] , we are of the prima facie opinion that the State of Maharashtra has not shown any extraordinary situation for providing reservations to Marathas in excess of 50%. Maratha community which comprises of 30% of the population in the State of Maharashtra cannot be compared to marginalised sections of the society living in far flung and remote areas. The State has failed to make out a special case for providing reservation in excess of 50%. Neither has any caution been exercised by the State in doing so."

28. The operation of the farm laws were suspended by the Hon'ble Supreme Court by an interim order on 12.01.2021 in **Rakesh Vaishnav -vs- Union of India (2021) 1 SCC 590**. Interestingly, Shri P.Wilson, who is now opposing the grant of interim relief was the counsel for a set of petitioners therein and welcomed the proposal to stay the implementation of the laws.

29. Even in **Jaya Thakur -vs- Union of India (2021) 9 SCC 538** relied on by the learned Advocate General, the power of the Constitutional Court to suspend a legislation was recognized. The Courts have to bear the following note of caution:

12. *It is well-settled position of law that in matters involving constitutionality of legislations, courts are cautious and show judicial restraint in granting interim orders. Unless the provision is*



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ex facie unconstitutional or manifestly violates fundamental rights, the statutory provision cannot be stultified by granting an interim order [Health for Millions v. Union of India, (2014) 14 SCC 496 : (2015) 1 SCC (Cri) 422] . Stay is not ipso facto granted for mere examination or even when some cogent contention is raised. Suspension of legislation pending consideration is an exception and not the rule. The said principle keeps in mind the presumption regarding constitutionality of legislation as well as the fact that the constitutional challenge when made may or may not result in success."

30. In fact, we kept all the aforesaid parameters in mind while considering the plea for interim relief. The presumption of constitutionality which the amending Acts did carry stood displaced the moment the decisions of the Hon'ble Supreme Court reported in **(2022) 5 SCC 179 (Gambhirdhan K Gadhvi -vs- State of Gujarat, (2022) 16 SCC 318 (State of West Bengal -vs- Anindya Sundar Das and Others), (2023) 17 SCC 338 (Professor Sreejith -vs- Dr.Rajashree MS and Others)** were cited. The unconstitutionality and repugnancy vitiating the impugned amendment Acts is so glaring and obvious that we cannot shut our eyes. We are convinced that the impugned amendments are *ex-facie* unconstitutional. If an unconstitutional process is allowed to proceed, it would cause irreparable injury and public interest would suffer. In the aforementioned cases, Vice Chancellors were appointed in breach of the procedure laid down in the UGC Regulations and



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eventually Writs of Quo Warranto were issued. But then, it takes time. We are therefore of the view that the balance of convenience is in favour of staying an unconstitutional legislation. In fact, we do not propose to stay the operation of the amending Acts in toto. We confine ourselves to staying that part of the legislation which takes away the power of the Governor to make the appointment. In fact, we do not even propose to stay the constitution of the search committees. If interim stay is granted, the position that originally obtained will revive.

31. Having come to the conclusion that taking away the Chancellor's power to appoint the Vice Chancellors from out of the names submitted by the search committees is unconstitutional and that we have the power to suspend an unconstitutional legislative provision, the next question that calls for consideration is whether we should still defer granting interim relief. It is true that the High Court is on Vacation and that we are sitting as Vacation Bench Judges. To us, it should not make any difference. The Hon'ble Chief Justice of India has observed that Court Vacation sittings should be rechristened 'partial working days'. We take inspiration from the said observation. Judges can be on vacation, Courts should not be on vacation. Access to justice should always be available. When an advocate complains that an unconstitutional legislation has been passed, we cannot shut our eyes. That is why we propose to intervene then and there. Pure questions of law have been addressed. In our respectful view, a week was more than sufficient for



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the State to file its written response. We say with utmost sadness and regret that the approach of Shri P.Wilson was one of obstruction and not assistance. On the other hand, the learned Advocate General even while insisting that the case should be adjourned, offered his assistance by addressing the Court on all the legal issues.

32. Shri P.Wilson made a preposterous submission that we were virtually reviewing the decision of the Hon'ble Supreme Court rendered in **State of Tamil Nadu -Vs- The Governor of Tamil Nadu**. No submission can be more outrageous than this. We are mindful of our position. We know that we have to give the highest respect to any decision of the Hon'ble Supreme Court. We do not need lectures from Shri P.Wilson on this score. We believe in judicial discipline. The Hon'ble Supreme Court in the said decision was not concerned with the constitutionality of the impugned provisions. When the learned Advocate General at one point claimed that the petitioner's Senior Counsel is merely reiterating the contentions advanced in the said decision, we called upon the learned Advocate General to draw our attention to the relevant paragraphs, where the contentions now advanced stood rejected. The learned Advocate General made a vain attempt and subsequently gave up this objection altogether.

33. The State of Tamil Nadu is said to have filed a Transfer Petition. They can



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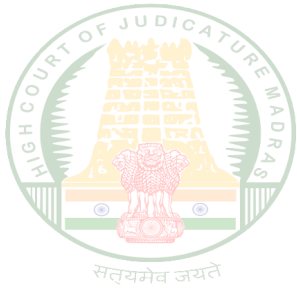
always proceed with the same. If the Hon'ble Supreme Court had orally injuncted us from taking up this case and the same had been brought to our notice, we would have unhesitatingly kept our hands off. But, no such development has taken place. That is why we are unable to accede to the request made by the learned Advocate General for adjourning the case. We are on a short point. When we notice that the impugned amending Acts fall foul of the law laid down by the Hon'ble Supreme Court, we are unable to mechanically adjourn the proceedings. It is this primary consideration that impels us to grant interim relief.

34. We therefore stay the operation of the impugned amendment Acts to the extent they take away the power of appointment of the Vice Chancellors of the petition mentioned Universities from the hands of the Chancellor and vest the same in the Government.

For filing counter, post after eight weeks.

(G.R.SWAMINATHAN, J.) (V.LAKSHMINARAYANAN, J.)
21-05-2025

KST
Index:Yes/No
Speaking/Non-speaking order

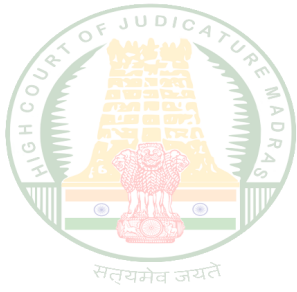


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To

- 1.The State Of Tamilnadu
Rep By Its Chief Secretary, Government
Of Tamilnadu, Secretariat, Chennai-600
009
- 2.The Unino Of India
Rep By Its Secretary To Government,
Ministry Of Home Affairs, North Block,
Central Secretariat, New Delhi-110 001
- 3.The University Grants Commission
Bahadur Shah Zafar Marg, New Delhi-110
002
- 4.The Secretary To Government
Higher Education Department, Law
Department, Fort St.George, Chennai-
600 009
- 5.The Secretary To His Excellency
The Governor Of Tamilnadu, Raj Bhavan,
Chennai
- 6.The Secretary To Government Of India
Ministry Of Human Resource
Development, North Block, Central
Secretariat, New Delhi-110 001



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**G.R.SWAMINATHAN J.
AND
V.LAKSHMINARAYANAN J.**

KST

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