

2026 LiveLaw (SC) 96

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
VIKRAM NATH; J., SANDEEP MEHTA; J.**

JANUARY 30, 2026.

CIVIL APPEAL NO(S). 54-55 OF 2025 (Arising out of SLP (C.) No. 4593-4594 of 2024)

DR. S. MOHAN

versus

**THE SECRETARY TO THE CHANCELLOR, PUDUCHERRY TECHNOLOGICAL UNIVERSITY,
PUDUCHERRY & ORS ETC.**

Service Law – Appointment of Vice-Chancellor – Conflict between State/UT Act and UGC Regulations – Legislative Competence – Doctrine of Repugnancy - The Supreme Court affirmed the High Court’s decision to strike down Section 14(5) of the Puducherry Technological University Act, 2019 (PTU Act) for being inconsistent with Regulation 7.3 of the UGC Regulations, 2018 - held that since UGC Regulations trace their source to Entry 66 of List I (Union List), they possess an overriding effect over State/UT legislations enacted under Entry 25 of List III (Concurrent List) - The Search-cum-Selection Committee for a Vice-Chancellor must necessarily include a nominee of the Chairman, UGC, and its members must not be connected with the University - Key Legal Issues & Rulings – i. Primacy of Entry 66 List I over Entry 25 List III - Supreme Court reiterated that while both the Union and States can legislate on "Education" under Entry 25 of List III, such power is expressly subject to Entry 66 of List I (Coordination and determination of standards) - Any State legislation that impinges upon or dilutes the standards prescribed by the Union under Entry 66 is ultra vires; ii. Mandatory Nature of UGC Regulations - Regulation 7.3 of the UGC Regulations, 2018, which mandates the inclusion of a UGC nominee in the Search-cum-Selection Committee, is an integral component of "standards in higher education." - Section 14(5) of the PTU Act, which omitted this requirement and included a government official (Pro-Chancellor) in the committee, was declared invalid; iii. Doctrine of Repugnancy and Article 254(2) - noted that the doctrine of repugnancy under Article 254 and the need for Presidential assent apply only when both Central and State legislations operate within the Concurrent List - Since the UGC Act and Regulations are referable to List I (Entry 66), the question of curing repugnancy via Article 254(2) does not arise; iv. Exercise of Article 142 Powers - Despite finding the appointment procedure illegal, Supreme Court invoked its extraordinary powers under Article 142 to allow the appellant to complete his tenure (ending December 2026) - This was done to avoid "grave stigma" to the academican and administrative disruption, noting there were no allegations against the appellant’s integrity or merit. [Relied on *Hoechst Pharmaceuticals Ltd. v. State of Bihar* (1983) 4 SCC 45; *Gambhirdhan K. Gadhi v. State of Gujarat* (2022) 5 SCC 179; Paras 37-43, 46-48, 51-52]

For Appellant(s): Mr. G. Balaji, AOR

For Respondent(s): M/S. Kmnp Law Aor, AOR Ms. Pooja Dhar, AOR Mr. Aravindh S., AOR Mr. Manoj Ranjan Sinha, Adv. Mr. Mrigank Prabhakar, AOR Mr. Vishal Agrawal, Adv. Ms. Astha Singh, Adv.

J U D G M E N T

Mehta, J.

1. Heard.

2. The appellant, Dr. S. Mohan¹, has approached this Court by way of the instant appeals with special leave, under Article 136 of the Constitution of India, 1950², for assailing the common judgment and order dated 19th December, 2023, passed by the High Court of Judicature at Madras³ in Writ Petition Nos. 28147 of 2022 and 4174 of 2023, whereby the High Court allowed the two separate writ petitions filed by the Petitioners therein, *i.e.*, respondent No. 2 in Civil Appeal No. 54 of 2025 and respondent No. 1 in Civil Appeal No. 55 of 2025, and set aside the appointment of the appellant as the Vice-Chancellor of the Puducherry Technological University⁴. However, the High Court, in order to avoid a vacuum, permitted the appellant to continue in office until a duly selected incumbent assumes charge in accordance with law or until 30th June, 2024, whichever was earlier. The said common judgment and order dated 19th December, 2023, is the subject matter of challenge in these appeals by special leave.

3. While entertaining the special leave petitions, this Court *vide* order dated 26th February, 2024 issued notice and stayed the operation of the impugned judgment and order dated 19th December, 2023 and as a consequence, the appellant continues to hold the post of the Vice-Chancellor. His tenure of five years ends in December, 2026.

BRIEF FACTS

4. Succinctly stated, the facts relevant and essential for disposal of these appeals are noted hereinbelow.

5. The Legislative Assembly of the Union Territory of Puducherry, in exercise of its legislative powers under Article 246 read with Seventh Schedule of the Constitution, enacted the Puducherry Technological University Act, 2019⁵, which received the assent of the Hon'ble President on 31st March, 2020, thereby establishing the Puducherry Technological University under Section 3 of the PTU Act.

6. According to Section 14 of the PTU Act, the Vice-Chancellor shall be a whole-time officer of the University and shall be a person of academic eminence, competence, integrity, moral standing, and institutional commitment, to be appointed in accordance with the qualifications and norms prescribed in the Statutes. The appointment shall be made from a panel of three names recommended by the Search-cum-Selection Committee constituted under Section 14(5), and such panel shall not include the name of any member of the said Committee. The identification of candidates for inclusion in the panel shall be carried out by the Search-cum-Selection Committee through a public notification, or by nomination, or through a talent-search process, or by a combination thereof. The members of the Search-cum-Selection Committee shall be persons of eminence in the fields of Engineering, Technology, Management, and Advanced Sciences, and shall not, in any manner, be connected with the University.

7. Section 14(5) of the PTU Act lays down the composition of the Search-cum-Selection Committee referred to above, and the same is reproduced hereinbelow for ready reference:

“(5) For the purpose of sub-section (2), the Search Committee shall consist of following members to recommend the names for the appointment as Vice-Chancellor, namely:-

¹ Hereinafter, referred to as “appellant”.

² Hereinafter, referred to as “Constitution”.

³ Hereinafter, referred to as “High Court”.

⁴ Hereinafter, referred to as “the University”.

⁵ Hereinafter, referred to as “PTU Act”.

- (a) A nominee of the Chancellor, who shall be a person of eminence in the field of Engineering/Technology, not below the rank of Vice-Chancellor/Professor
...Convener
- (b) A nominee of the Government
...Member
- (c) A nominee of Board of the Governors
...Member

For the appointment of First Vice-Chancellor, Secretary to Government (Higher and Technical Education), Government of Puducherry shall be the member in place of the nominee of Board of the Governors.”

8. In accordance with the above statutory mandate, a Search-cum-Selection Committee was duly constituted under Section 14(5) of the PTU Act by the Hon’ble Lieutenant Governor of Puducherry for the purpose of selection of the Vice-Chancellor of the University, *vide* G.O.M. No. 3 dated 20th January, 2021. The Committee comprised of Prof. V. Ramgopal Rao, Director, Indian Institute of Technology, Delhi, as the Convenor, while Dr. V. Jagadeesh Kumar, Professor, Department of Electrical Engineering, Indian Institute of Technology, Madras, and the Secretary to Government (Higher & Technical Education), Government of Puducherry, were nominated as Members.

9. Pursuant to its constitution, the aforesaid Search-cum-Selection Committee issued a public advertisement on 22nd February, 2021, inviting applications and nominations from distinguished academicians in the field of Engineering and Technology possessing the highest level of competence, integrity, moral stature and institutional commitment for appointment to the post of Vice-Chancellor of the University.

10. In response to the said advertisement, several applications and nominations were received from eminent academicians. After conducting a comprehensive and objective assessment, the Search-cum-Selection Committee finalized a panel of eligible candidates and submitted its recommendations to the Hon’ble Lieutenant Governor for consideration.

11. Acting upon the recommendations of the duly constituted Search-cum-Selection Committee, the Hon’ble Lieutenant Governor of the Puducherry appointed the appellant, Dr. S. Mohan, as the first Vice-Chancellor of the University *vide* order dated 17th December, 2021. The appointment was made for a tenure of five years from the date on which Dr. Mohan entered upon office, or until he attained the age of 70 years, whichever is earlier, in strict conformity with the mandate of the PTU Act and the statutory framework governing such appointments.

12. Aggrieved with the appointment of the appellant as the Vice-Chancellor of the University, respondent No. 2–Palaniappa instituted Writ Petition No. 28147 of 2022 before the High Court seeking to challenge the appellant’s appointment as the Vice-Chancellor. In parallel, respondent No. 1–Mourouga Pragash filed Writ Petition No. 4174 of 2023, laying a broader challenge to the statutory framework itself, assailing Section 14(5) and its proviso as unconstitutional, void, and *non-est*. Both the writ petitions, though distinct in form, effectively sought to challenge the duly concluded selection process and the appointment made pursuant thereto of the appellant as the Vice-Chancellor of the University.

13. It was contended before the High Court that the constitution of the Search-cum-Selection Committee for the appointment of the 1st Vice-Chancellor of the University was not in conformity with Regulation 7.3 of the UGC 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, 2018⁶, as it did not include a nominee of the Chairman, UGC. It was further urged that the inclusion of the Secretary (Higher & Technical Education), Government of Puducherry, in the Search-cum-Selection Committee contravened the same Regulation, since he was connected with the University in the capacity of Pro-Chancellor and had earlier served as a member of the Governing Body of the erstwhile Puducherry Engineering College, thereby giving rise to a conflict of interest. The said Regulation 7.3 is reproduced herein below for ready reference: -

“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 I or academic administrative 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 cum-Selection 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.”

14. The High Court, while considering the contentions regarding the constitution of the Search-cum-Selection Committee, traversed into the broader issue of the *vires* of Section 14(5) of the PTU Act. It examined the question of Presidential assent under Article 254(2) of the Constitution and observed that as provided under Article 254(2), where a State legislation is inconsistent with a Central legislation in a matter enumerated in the Concurrent List, it can only prevail if it has been reserved for consideration of the Hon'ble President and has received such assent. Reliance was placed upon the decision of the Constitution Bench of this Court in ***Kaiser-I-Hind Pvt. Ltd. & Another v. National Textile Corporation (Maharashtra North) Ltd. & Others***⁷, which held that such assent requires conscious consideration of the repugnancy and express approval by the Hon'ble President. Viewed from this perspective, the High Court found that the Government of Puducherry had not produced any material to demonstrate that the Hon'ble President's assent had been obtained for Section 14(5) of the PTU Act, particularly with context to its inconsistency with Regulation 7.3 of the UGC Regulations, 2018, which mandates inclusion of a nominee of the Chairman, University Grants Commission in the Search-cum-Selection Committee for appointment of the Vice-Chancellor.

⁶ Hereinafter, referred to as “UGC Regulations, 2018”.

⁷ (2002) 8 SCC 182.

15. Relying on the pronouncements in **Dr. Preeti Srivastava v. State of M.P.**⁸, **Praneeth K. v. UGC**⁹, and **Gambhirdhan K. Gadhvi v. State of Gujarat**¹⁰, the High Court concluded that any action or decision by a University inconsistent with the binding provisions of the UGC Regulations is legally untenable and invalid to the extent of such inconsistency.

16. After applying the ratio of above judicial pronouncements, the High Court struck down Section 14(5) of the PTU Act as being *ultra vires* the UGC Regulations, 2018 and consequently invalidated the appointment of the appellant as Vice-Chancellor of the University. Nonetheless, to ensure continuity of administration and prevent a leadership vacuum, the High Court allowed the appellant to remain in office until a duly appointed successor assumed charge in accordance with law, or until 30th June, 2024, whichever occurs earlier.

17. The said judgment and order dated 19th December, 2023 passed by the High Court is the subject matter of challenge in these appeals by special leave.

SUBMISSIONS ON BEHALF OF APPELLANTS

18. Shri Nidhesh Gupta, learned senior counsel appearing for the appellant, vehemently and fervently contended that the impugned judgment is contrary to the settled principles of statutory interpretation and inconsistent with the factual situation obtaining from record.

19. To buttress the above contentions, learned senior counsel for the appellant, submitted that reliance placed by the High Court upon **Kaiser-iHind** (*supra*) is fundamentally flawed. It was argued that where the Hon'ble President accords general assent, such assent operates for all purposes, and validates the State legislation in its entirety. It is only where the Hon'ble President grants specific or limited assent, expressly confined to a particular provision or subject matter, that the operation of the assent becomes correspondingly restricted.

20. It was submitted that in the present case, it is nobody's case that the assent obtained for the State legislation was a limited or qualified assent. The assent of the Hon'ble President to the PTU Act is a general assent, and therefore attracts the principles laid down by the Constitution Bench in **Rajiv Sarin & Another v. State of Uttarakhand & Others**¹¹, which squarely governs the issue.

21. It was further submitted that the respondents' argument, that any deviation from the UGC Regulations, 2018 would make the statute *ultra vires ipso facto* is misplaced, inasmuch as the UGC Regulations, 2018, even if traceable to Entry 66 of List I, cannot extend beyond the prescription of standards in higher education. Learned senior counsel submitted that the Constitution Bench decisions in **R. Chitralakha v. State of Mysore**¹², **Modern Dental College v. State of M.P.**¹³ and **T.N. Medical Officers' Association v. Union of India**¹⁴, have consistently held that Entry 66 of List I is confined to prescribing standards in higher education and does not extend to administrative or governance matters of universities, which fall under Entry 25 of List III in the Seventh Schedule to the Constitution. The said rulings clearly establish that the composition of a Search-cum-

⁸ (1999) 7 SCC 120.

⁹ (2021) 14 SCC 241.

¹⁰ (2022) 5 SCC 179.

¹¹ (2011) 8 SCC 708.

¹² (1964) 6 SCR 368.

¹³ (2016) 7 SCC 353.

¹⁴ (2021) 6 SCC 568.

Selection Committee to select a Vice-Chancellor is not a standard under Entry 66 of List I.

22. It was further submitted that the reliance placed by the High Court upon **Gambhirdhan** (*supra*), is unfounded as the said judgment deals with entirely different set of facts. The Vice-Chancellor appointed in the said case did not satisfy the mandatory eligibility criteria under the UGC Regulations, 2010, and the Search-cum-Selection Committee itself had diluted the University Grants Commission¹⁵ mandated qualifications. Further, the University in that case was receiving substantial Central financial assistance; had adopted the UGC Scheme; and the Search-cum-Selection Committee was not constituted as per the relevant UGC Regulations. Most significantly, **Gambhirdhan** (*supra*) was decided not on the basis of Entry 66 of List I, but squarely on principles of repugnancy under Article 254 of the Constitution, in a situation where no Presidential assent existed at all. In contrast, the present case involves an enactment protected by Presidential assent under Article 254(2) of the Constitution, coupled with the admitted position that the University has neither adopted the UGC Regulations, 2018 nor receives UGC grants.

23. It was submitted that in the present case, there is no dispute regarding the appellant's qualifications and credentials. There is no allegation regarding integrity of the appellant or regarding the performance of duties as a Vice-Chancellor pursuant to the selection in the year 2021. It was thus submitted that even if this Court were to affirm the judgment of the High Court, this is a fit case wherein the appellant should be allowed to complete his tenure as the Vice-Chancellor which is coming to an end in December, 2026.

24. On these grounds, learned counsel for the appellant, implored the Court to set aside the impugned judgment and allow the appeals.

SUBMISSIONS ON BEHALF OF RESPONDENTS

25. *Per contra*, learned counsel for the respondents opposed the submissions of the appellant and argued that the legislative field in respect of coordination and determination of standards in higher education is exclusively occupied by the Parliament under Entry 66 of List I. Since Parliament has exercised this power through the enactment of the University Grants Commission Act, 1956¹⁶, the Legislature of the Union Territory stood denuded of competence to legislate on any matter covered by Entry 66 of List I. It was submitted that, in such a situation, the PTU Act is *ultra vires*, not only on the ground of repugnancy under Article 254, but also because the Legislature of Union Territory lacked the legislative competence to enact it in the first place.

26. It was further submitted that Entry 66 of List I cannot be construed in the narrow and restrictive manner as argued by the appellant. Reliance was placed on **Gujarat University, Ahmedabad v. Krishna Ranganath Mudholkar**¹⁷, wherein a six Judge Bench of this Court held beyond the pale of doubt that the power under Entry 66 of List I extends not merely to evaluating standards but also to preventing and removing disparities in such standards. The Court emphasised that the power of coordination necessarily includes the power to take all steps required to ensure uniformity and prevent any impediment to national educational standards. The Constitution Bench described this power as absolute and unconditional, warranting full effect according to its plain terms.

¹⁵ Hereinafter, referred to as "UGC".

¹⁶ Hereinafter, referred to as "UGC Act".

¹⁷ 1962 SCC OnLine SC 146

27. It was further submitted that this Court in **University of Delhi v. Raj Singh**¹⁸, has provided that norms for the appointment of Lecturers in a University fall within the ambit of Entry 66 of List I of the Constitution. The said rationale applies *a fortiori* to the appointment of a Vice-Chancellor, as the standards and norms prescribed by the UGC for such appointment directly determine the standards of education in a university, an institution of higher education or research.

28. Lastly, it was argued that even assuming, *arguendo*, that the power to frame regulations regarding the appointment of a Vice-Chancellor is traceable to Entry 25 of List III, the PTU Act remains invalid. The Presidential assent to the PTU Act was granted without reference to the purpose for which it was sought, unlike the general assent under Article 254 considered in **Gram Panchayat, Jamalpur v. Malwinder Singh**¹⁹, as relied upon in **Rajiv Sarin (supra)**, which is effective for all purposes. In the present case, the assent was not under Article 254 at all, and therefore, the reasoning in **Rajiv Sarin (supra)** does not assist the appellant.

29. Learned counsel appearing for the UGC submitted that the UGC Regulations are mandatory in nature and have statutory force. It was contended that the said Regulations cannot be diluted, disregarded or overlooked at any stage of the process of appointment, and that all Universities, whether Central or State, are bound to act in strict conformity with the same.

30. In light of the submissions made hereinabove, learned counsel for the respondents supported the impugned judgment and urged that the appeals be dismissed as devoid of merit.

ANALYSIS

31. We have heard and considered the submissions advanced by learned counsel for the parties and have gone through the impugned judgment and the statutory provisions and the other material placed on record.

32. The case of the writ petitioners before the High Court was that, although the procedure prescribed under the PTU Act for constituting the Search-cum-Selection Committee for appointment of the Vice-Chancellor of the University may have been followed but the same was not in accordance with the UGC Regulations, 2018. The relevant extracts from the discussion made by the High Court for declaring Section 14(5) of the PTU Act *ultra vires* on the ground of being inconsistent with Regulation 7.3 of the UGC Regulations, 2018 and thereby quashing and setting aside the appointment of the appellant are as below: -

“10. Though elaborate submissions have been made by both sides on repugnancy in terms of Article 254 of the Constitution arising out of inconsistency of Section 14(5) of the PT Act with Regulation 7.3 of the UGC Regulations, 2018, in view of the legal position having been settled by the Constitution Bench of the Hon'ble Supreme Court of India in **Dr.Preeti Srivastava -vs- State of M.P.** [(1999) 7 SCC 120], it would not be necessary to delve into it, except to notice the relevant passage from that ruling, which reads as follows:-

“35. The legislative competence of Parliament and the legislatures of the States to make laws under Article 246 is regulated by the VIIth Schedule to the Constitution. In the VIIth Schedule as originally in force, Entry 11 of List II gave to the State an exclusive power to legislate on “education

¹⁸ 1994 Supp. (3) SCC 516

¹⁹ (1985) 3 SCC 661.

including universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I and Entry 25 of List III”.

Entry 11 of List II was deleted and Entry 25 of List III was amended with effect from 3-1-1976 as a result of the Constitution 42nd Amendment Act of 1976. The present Entry 25 in the Concurrent List is as follows:

“25. 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.”

Entry 25 is subject, inter alia, to Entry 66 of List I. Entry 66 of List I is as follows:

“66. Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

Both the Union as well as the States have the power to legislate on education including medical education, subject, inter alia, to Entry 66 of List I which deals with laying down standards in institutions for higher education or research and scientific and technical institutions as also coordination of such standards. A State has, therefore, the right to control education including medical education so long as the field is not occupied by any Union legislation. Secondly, the State cannot, while controlling education in the State, impinge on standards in institutions for higher education. Because this is exclusively within the purview of the Union Government. Therefore, while prescribing the criteria for admission to the institutions for higher education including higher medical education, the State cannot adversely affect the standards laid down by the Union of India under Entry 66 of List I. Secondly, while considering the cases on the subject it is also necessary to remember that from 1977, education, including, inter alia, medical and university education, is now in the Concurrent List so that the Union can legislate on admission criteria also. If it does so, the State will not be able to legislate in this field, except as provided in Article 254.

It would be beneficial here to extract Article 254 of the Constitution, which reads 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 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.

The Constitution Bench of the Hon'ble Supreme Court of India in Kaiser-I-Hind (P) Ltd. -vs- National Textile Corporation [(2002) 8 SCC 182] has authoritatively explicated the law in that regard as follows:-

“65.

2. (a) Article 254(2) contemplates “reservation for consideration of the President” and also “assent”.

Reservation for consideration is not an empty formality. Pointed attention of the President is required to be drawn to the repugnancy between the earlier law made by Parliament and the contemplated State legislation and the reasons for having such law despite the enactment by Parliament.

(b) The word “assent” used in clause (2) of Article 254 would in context mean express agreement of mind to what is proposed by the State.

(c) In case where it is not indicated that “assent” is qua a particular law made by Parliament, then it is open to the Court to call for the proposals made by the State for the consideration of the President before obtaining assent.”

Viewed from this perspective, the Government of Puducherry has not placed any material before the Court to show that the assent of the President has been obtained for the PTU Act with specific reference to the inconsistency of Section 14(5) of the PTU Act with Regulation 7.3 of the UGC Regulations, 2018 that requires a nominee of the Chairman of the UGC to constitute the 'Search Committee' for the appointment of the Vice-Chancellor of PT University.

[Emphasis supplied]

33. A plain reading of the aforesaid extract shows that the High Court held that both the Union as well as the States possess the power to legislate on subject of education, however, the State’s competence to regulate on matters relating to education, including medical and university education, is restricted to the fields not occupied by the Union legislation. Furthermore, the State cannot, while exercising control over education within its jurisdiction, impinge upon the standards prescribed for institutions of higher education, which remain exclusively within the competence of the Union.

34. The High Court further held that, while prescribing the criterion for admission to the institutions of higher education, the State cannot adversely affect the standards laid down by the Union, in exercise of its legislative power under Entry 66 in List I. Furthermore, since the year 1977, medical and university education have been included in the Concurrent List and hence, the Union can legislate on admission criterion also. In such a scenario, the State is precluded from enacting legislation in this field except in accordance with Article 254, which governs repugnancy between Union and State laws.

35. Moreover, while referring to Article 254, the High Court observed that the Government of Puducherry did not place any material before the Court to show that assent of the Hon’ble President had been obtained for the PTU Act with specific reference to the inconsistency between Section 14(5) of the PTU Act and Regulation 7.3 of the UGC Regulations, 2018, which unequivocally requires that one of the members of the Search-cum-Selection Committee for appointment of Vice-Chancellor must be a nominee of the Chairman, UGC.

36. Before proceeding to examine the merits of the controversy raised in the present appeals, it is necessary and appropriate to advert to the constitutional scheme governing the distribution of legislative powers under Article 246 of the Constitution, since the determination of the source, extent, and limits of legislative competence constitutes the essential backdrop against which the validity of the appointment of the appellant as the Vice-Chancellor must be assessed.

37. The scheme of legislative distribution under the Constitution is delineated in Article 246 read with the Seventh Schedule. Parliament is vested with the power to legislate on matters enumerated in List I of the Seventh Schedule, whereas the State Legislatures are competent to enact laws on subjects falling within List II. In respect of matters placed in List III, legislative competence is shared by both Parliament and the State Legislatures,

subject to the constitutional mechanism governing overlap and inconsistency. The controversy involved in the present appeals, according to the appellant, relates to a subject traceable to Entry 25 of List III, which therefore assumes relevance for its proper determination and is reproduced hereinbelow for ready reference: -

“25. 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”

[Emphasis Supplied]

38. A plain reading of Entry 25 of List III indicates that while the State Legislature is competent to enact laws on the subject of education, such legislative power is expressly circumscribed by Entries 63 to 66 of List I, and in particular, Entry 66 thereof, which confers exclusive authority upon the Parliament to legislate with respect to the coordination and determination of standards in institutions for higher education. The said Entry reads as below: -

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

39. As noted above²⁰, this Court in *Dr. Preeti Srivastava (Supra)* held that both the Union and the States have legislative competence over education, including medical education, subject to Entry 66 of List I, which exclusively vests Parliament with the power to determine standards in higher education. While the State may regulate education so long as the field is unoccupied, it cannot, in doing so, impinge upon or dilute the standards prescribed by the Union under Entry 66 of List I.

40. The UGC Regulations, 2018 trace their source to Entry 66 of List I, inasmuch as the said Regulations have been framed by the UGC in exercise of the powers conferred under Section 26(1)(e) and 26(1)(g) read with Section 14 of the UGC Act, which itself has been enacted by the Parliament in exercise of its exclusive legislative competence under Entry 66 of List I of the Constitution.

41. On that anvil, the PTU Act was required to operate in strict conformity with Regulation 7.3 of the UGC Regulations, 2018, which lays down a mandatory framework for appointment of a Vice-Chancellor and, *inter alia*, stipulates that the Search-cum-Selection Committee must necessarily include one nominee of the Chairman, UGC. The inclusion of a UGC nominee being an integral component of the standards prescribed for appointments in higher education, any deviation therefrom strikes at the root of the scheme envisaged under the Regulations. In the present case, it is undisputed that the Search-cum-Selection Committee was constituted without the inclusion of the nominee of the Chairman, UGC, in clear disregard of Regulation 7.3 of the UGC Regulations, 2018. Consequently, Section 14(5) of the PTU Act, to the extent it prescribes a composition of the Search-cum-Selection Committee contrary to the mandate of the UGC Regulations, 2018, has to be declared *ultra vires* the UGC Regulations, 2018, which have been framed under a Central enactment traceable to Entry 66 of List I, which occupies the field and therefore, possess overriding effect.

42. Moreover, Regulation 7.3(ii) of the UGC Regulations, 2018 mandates that members of the Search-cum-Selection Committee shall not be connected in any manner with the concerned University or its affiliated colleges. However, proviso to Section 14(5) of the PTU Act includes the Secretary to the Government (Higher & Technical Education) as a member of the Search-cum-Selection Committee for appointment of the 1st Vice-

²⁰ *Supra* paragraph No. 28.

Chancellor. The Secretary to the Government (Higher & Technical Education) in the capacity of Pro-Chancellor and as a former member of the Governing Body of the erstwhile Puducherry Engineering College, stands directly connected with the University, thereby giving rise to a clear conflict of interest and placing the said provision in direct contravention of the UGC Regulations, 2018.

43. The aforesaid deviations from the mandatory requirements of the UGC Regulations, 2018 not only vitiate the constitution of the Search-cum-Selection Committee but also strike at the statutory framework governing appointments to the office of Vice-Chancellor, thereby rendering such appointments legally vulnerable.

44. As also noted by the High Court, this Court in **Gambhirdan (supra)**, while setting aside the appointment of the Vice-Chancellor of Sardar Patel University, held that the UGC Regulations, being subordinate legislation framed under the UGC Act and laid before Parliament as statutorily mandated, form an integral part of the Central enactment and that any appointment made in derogation thereof amounts to a violation of statutory provisions and is consequently unsustainable in law, warranting judicial interference. This Court held as follows in **Gambhirdan (Supra)**: -

“49. Therefore, when the appointment of Respondent 4 is found to be contrary to the UGC Regulations, 2018 and the UGC Regulations are having the statutory force, we are of the opinion that this is a fit case to issue a writ of quo warranto and to quash and set aside the appointment of Respondent 4 as the Vice-Chancellor of the SP University.

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.”

45. The legislative provisions under consideration trace their source to different entries in the Seventh Schedule, with the UGC Act and the UGC Regulations, 2018 framed thereunder being referable to Entry 66 of List I, while the PTU Act is traceable to Entry 25 of List III. The two enactments, therefore, do not operate within the same legislative field, but are founded on distinct heads of legislative competence allocated under the Constitution of India.

46. In that view of the matter, the factual matrix does not give rise to any occasion to examine the issue of repugnancy under Article 254 of the Constitution of India, since the doctrine of repugnancy and the concomitant requirement of Presidential assent are attracted only where both the Central and State legislations operate within the Concurrent List. Undeniably, in the present case, the Central legislation occupies a field exclusively reserved for the Parliament under List I, and consequently the question of testing or determining repugnancy, or of curing the same by recourse to Article 254(2), does not arise at all.

47. This Court in **Hoechst Pharmaceuticals Ltd. v. State of Bihar**²¹, categorically ruled that the doctrine of repugnancy and provision of Article 254 of the Constitution are

²¹ (1983) 4 SCC 45.

attracted only when both legislations operate within the Concurrent List. The Court observed as follows:

“69. We fail to comprehend the basis for the submission put forward on behalf of the appellants that there is repugnancy between sub-section (3) of Section 5 of the Act which is relatable to Entry 54 of List II of the Seventh Schedule and para 21 of the Control Order issued by the Central Government under subsection (1) of Section 3 of the Essential Commodities Act relatable to Entry 33 of List III and therefore sub-section (3) of Section 5 of the Act which is a law made by the State legislature is void under Article 254(1). **The question of repugnancy under Article 254(1) between a law made by Parliament and a law made by the State legislature arises only in case both the legislations occupy the same field with respect to one of the matters enumerated in the Concurrent List, and there is direct conflict between the two laws. It is only when both these requirements are fulfilled that the State law will, to the extent of repugnancy, become void. Article 254(1) has no application to cases of repugnancy due to overlapping found between List II on the one hand and Lists I and III on the other.** If such overlapping exists in any particular case, the State law will be ultra vires because of the non obstante clause in Article 246(1) read with the opening words “subject to” in Article 246(3). In such a case, the State law will fail not because of repugnance to the Union law but due to want of legislative competence. It is no doubt true that the expression “a law made by Parliament which Parliament is competent to enact” in Article 254(1) is susceptible of a construction that repugnance between a State law and a law made by Parliament may take place outside the concurrent sphere because Parliament is competent to enact law with respect to subjects included in List III as well as “List I”. But if Article 254(1) is read as a whole, it will be seen that it is expressly made subject to clause (2) which makes reference to repugnancy in the field of Concurrent List — in other words, if clause (2) is to be the guide in the determination of scope of clause (1), the repugnancy between Union and State law must be taken to refer only to the Concurrent field. Article 254(1) speaks of a State law being repugnant to (a) a law made by Parliament or (b) an existing law. There was a controversy at one time as to whether the succeeding words “with respect to one of the matters enumerated in the Concurrent List” govern both (a) and (b) or (b) alone. It is now settled that the words “with respect to” qualify both the clauses in Article 254(1) viz, a law made by Parliament which Parliament is competent to enact as well as any provision of an existing law. The underlying principle is that the question of repugnancy arises only when both the legislatures are competent to legislate in the same field i.e. with respect to one of the matters enumerated in the Concurrent List. Hence, Article 254(1) cannot apply unless both the Union and the State laws relate to a subject specified in the Concurrent List, and they occupy the same field.”

(Empasis Supplied)

48. Thus, in view of the constitutional scheme and the analysis undertaken hereinabove, no occasion arises for this Court to embark upon an examination of any perceived or alleged conflict of views in the decisions in *Kaiser-i-Hind (supra)* and *Rajiv Sarin (supra)* concerning the requirement of Presidential assent under Article 254 of the Constitution, the said provision being inapplicable to the present controversy.

49. Upon an exhaustive examination of the material placed on record and a careful consideration of the submissions advanced by the learned counsel for the parties, we are of the considered view that the findings recorded and the conclusions arrived at by the High Court in the impugned judgment do not suffer from any legal infirmity, perversity, or jurisdictional error warranting interference by this Court.

50. Having affirmed the impugned judgment insofar as it holds the constitution of the Search-cum-Selection Committee to be illegal, we are now called upon to decide as to whether the grave consequences of removal from the post of the Vice-Chancellor should befall the appellant before us. We may note that there is not even a whisper of an

allegation by the writ petitioners before the High Court impugning the qualifications, integrity or administrative acumen of the appellant, who has been continuing to administer the affairs of the University without any complaint from December, 2021. The High Court itself, whilst ruling against the appellant, granted him a lease of life till 30th June, 2024. This Court, while entertaining the appeals, stayed the operation of the impugned judgment, thereby protecting the appellant from the damning consequences of removal from the office, which could have proved unduly harsh and stigmatic to the career of an academician.

51. Therefore, having regard to the peculiar facts and circumstances of the case, particularly the facts that (i) the appellant was found meritorious and was duly selected by the Search-cum-Selection Committee with due regard to his qualifications and credentials; (ii) that he has continuously and without any demur, discharged the functions of the Vice-Chancellor of the University for the past four years; (iii) that his tenure is due to expire in December, 2026, this Court is of the considered view that an immediate cessation of his tenure may result in grave stigma to the appellant and so also avoidable disruption in the academic and administrative functioning of the University.

52. In the absence of any material on record to show that the appellant was, in any manner, disqualified to hold the office of Vice-Chancellor and bearing in mind that the process of selection of a new Vice-Chancellor by adhering to Clause 7.3 of the UGC Regulations, 2018 is likely to consume some time, ***we, in order to do complete justice, exercise our powers under Article 142 of the Constitution, and direct that the appellant shall continue to hold the post of Vice-Chancellor till the end of his normal tenure or till a new Vice-Chancellor is selected in accordance with law, whichever is earlier. We further provide that the appellant shall be entitled to participate in the selection process, if any, undertaken for fresh selection to the post of Vice-Chancellor of the University, without being prejudiced by the impugned judgment.***

53. At the cost of repetition, it is clarified that the Legislature of the Union Territory of Puducherry remains fully empowered and at liberty to take such appropriate and necessary steps, including amendment or modification of the existing statutory framework, as may be required to bring the provisions of the PTU Act in conformity with the UGC Regulations, 2018, in accordance with law.

54. The appeals are accordingly disposed of in the above terms.

55. Pending applications, if any, shall also stand disposed of.

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