

W.A. No. 1698/2021

: 1 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 23RD DAY OF FEBRUARY 2022 / 4TH PHALGUNA, 1943

WA NO. 1698 OF 2021

JUDGMENT DATED 15.12.2021 IN WP(C) 26975/2021 OF HIGH COURT OF KERALA

APPELLANTS/PETITIONERS:

- 1 DR. PREMACHANDRAN KEEZHOTH
AGED 50 YEARS
S/O KANNAN, MEMBER, SENATE, KANNUR UNIVERSITY, THAVAKKARA,
KANNUR, ASSISTANT PROFESSOR, DEPARTMENT OF ENGLISH,
PAYYANNUR COLLEGE, EDAT POST, PAYYANNUR, KANNUR DISTRICT,
RESIDING AT VADAKKUMPAD HOUSE, KARIVELLOOR POST, KANNUR
DISTRICT-670 006.
- 2 DR. SHINO P.JOSE,
AGED 40 YEARS
S/O JOSE, MEMBER, ACADEMIC COUNCIL (MANAGEMENT STUDIES)
KANNUR UNIVERSITY, THAVAKKARA, CIVIL STATION P.O.
KANNUR-670 002, RESIDING AT PALAKKAL HOUSE, RAJAPURAM
P.O.KASARAGOD DISTRICT

BY ADVS.
GEORGE POONTHOTTAM (SR.)
NISHA GEORGE

RESPONDENTS/RESPONDENTS:

- 1 THE CHANCELLOR
KANNUR UNIVERSITY, KERALA RAJ BHAVAN, KERALA GOVERNORS
CAMP P.O, THIRUVANANTHAPURAM-695 009.
- 2 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF
HIGHER EDUCATION, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM-695 001.

3 KANNUR UNIVERSITY
THAVAKKARA, CIVIL STATION P.O, KANNUR-670 002, REPRESENTED
BY THE REGISTRAR.

4 DR. GOPINATH RAVINDRAN,
VICE CHANCELLOR, KANNUR UNIVERSITY, THAVAKKARA, CIVIL
STATION P.O, KANNUR-670 002.

BY ADVS.

R1 BY SRI. KURIAN GEORGE KANNANTHANAM (SR.)

SHRI.V.MANU, SENIOR G.P.

R3 BY SRI.I.V.PRAMOD, STANDING COUNSEL (B/O)

R4 BY SRI. RANJITH THAMPAN (SR.)

SHRI.C.E.UNNIKRISHNAN SPL. G.P TO A.G

SHRI.T.B.HOOD, SPL.G.P. TO A.G.

SHRI.S.KANNAN, SENIOR G.P.

SHRI.ANTONY MUKKATH, SENIOR G.P.

A.ABDUL KHARIM

TONY GEORGE KANNANTHANAM

B.VINOD

V.M.KRISHNAKUMAR

SRI.K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL

SRI. C.E. UNNIKRISHNAN, SPL. GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23.02.2022, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Dated this the 23rd day of February, 2022.

JUDGMENT

SHAJI P. CHALY, J.

This appeal is preferred by the petitioners in W.P.(C) No. 26975 of 2021 challenging the judgment of the learned Single dated 15.12.2021 dismissing the writ petition by declining the following reliefs:

1. Issue a writ of certiorari calling for the records leading to Ext. P5 and quash the same.
2. Issue a writ in the nature of quo warranto calling upon the 4th respondent to explain under what authority the 4th respondent is holding the office as the Vice Chancellor of the 3rd respondent University in violation of the statutory mandate;

2. The question to be decided in this case arises under Section 10 of the Kannur University Act, 1996 ('Act, 1996' for short) dealing with the appointment of the Vice Chancellor, and the consequential re-appointment. In the case on hand, as per Ext. P5 order, the 4th respondent is re-appointed to the post of Vice Chancellor.

3. The learned single Judge found that the re-appointment of the existing Vice Chancellor namely Dr. Gopinath Ravindran, is in accordance with the provisions of the Act, 1996 and therefore, there is

no requirement for issuing any writ of *quo warranto*. Before we proceed to discuss the rival factual and legal contentions, a brief narration of the facts leading to the writ petition is required.

4. The first appellant is an elected member of the Senate of Kannur University and the second appellant is a member of the academic council of the said University. The Kannur University was established through Act 22 of 1996, which has undergone subsequent amendments. The 4th respondent was appointed as the Vice Chancellor of the Kannur University in the year 2017. His term was due to expire in the year 2021, since the appointment as per the provisions of the Act is for a period of four years.

5. Even according to the appellants, the 4th respondent possessed the requisite qualifications and eligibility to have been appointed as the Vice Chancellor of the University as provided under sub-Section 9 of Section 10 of the Act, 1996. However, when the 4th respondent was reappointed, the eligibility criteria was not taken into consideration by the appointing authority in accordance with the provisions of Section 10 of the Act, 1996. That apart, it is submitted that, the UGC Regulations dated 18th July, 2018 for the selection of the Vice Chancellor were not taken into account before the re-appointment was made. Other legal contentions are also raised with respect to Ext.

P2 notification dated 01.11.2021 issued by the State Government in exercise of the powers conferred under Sections 10(1)(2) and (3) of the Act, 1996 specifying that the Chancellor of the University has constituted a selection committee to make recommendations for the appointment of a new Vice Chancellor in the University.

6. Accordingly, applications were invited by the Selection Committee for the selection of Vice Chancellor of the University from the eligible candidates, wherein the qualifications and experience are shown to be as prescribed in clause 7.3(i) of the UGC Regulations dated 18.07.2018. It is also stated in the notification that the applicant should not have completed 60 years of age as on the date of notification as provided in Section 10 of the Act, 1996. Therefore, according to the appellants, the State Government having taken steps to conduct selection of the Vice Chancellor in accordance with the qualifications and experience prescribed under the UGC Notification, the eligibility criteria has to be assessed for re-assessment also.

7. Detailed counter affidavits were filed by the State Government as well as the 4th respondent basically contending that re-appointment was done in accordance with the provisions of the Act, 1996 as well as the UGC Regulations.

8. A reply affidavit is filed by the appellants to the counter affidavit

filed by the 4th respondent reiterating the stand adopted in the writ petition and along with the same, Annexure A1 order of the Higher Education (C) Department dated 29.09.2019 is also produced. So also, a reply affidavit is filed to the counter affidavit filed by the State and along with the same, a Press Release issued by the Kerala Raj Bhavan dated 3rd February, 2022 is produced and marked as Annexure A2.

9. The learned single Judge, after taking into account the provisions of law as well as factual and legal circumstances involved in the case, has arrived at the findings that the expressions 'appointment' and 'reappointment' have different connotations; for undergoing the reappointment, the qualifications are prescribed under clause 7.3 of the UGC Regulations, 2018 and there is no age bar for reappointment. However, it is found that for appointment as the Vice Chancellor, the entire procedure prescribed under Section 10 is to be followed. It is also found that at the initial stage of appointment, in the year 2017, all the parameters were considered for appointment as per the procedure laid down therein, but for the re-appointment, as per sub-Section 10(10), there is no requirement for undertaking the task of constitution of the selection committee as was done during the initial appointment. It was accordingly that the writ petition was

dismissed. It is, thus, challenging the legality and correctness of the judgment of the learned single Judge, the appeal is preferred.

10. We have heard the learned Senior Counsel for the appellants Sri. George Poonthottam assisted by Adv. Arun Chandran, learned Advocate General, Sri. K. Gopalakrishna Kurup, assisted by Adv V. Manu learned Senior Advocate Pleader, Sri. Ranjith Thampan for the 4th respondent, learned Senior Counsel Sri. Kurian George Kannanthanam for the Chancellor, the first respondent, and Sri. I.V. Pramod for the Kannur University, the third respondent, and perused the pleadings and materials on record.

11. The paramount contention advanced by the learned Senior Counsel for the appellant is that when there is no legal distinction prescribed between the appointment and the re-appointment, the learned single Judge has no right in law in holding that the 4th respondent had undergone the process as prescribed under the Act, 1996 and the UGC Regulations, 2018 and satisfied the parameters for appointment in the year 2017.

12. That apart, it is contended that the learned single Judge went wrong in holding that for re-appointment, as per Section 10(10) of the Act, 1996, there is no requirement for undertaking the task of constitution of the selection committee as was done during the initial

appointment.

13. It is also submitted that there is nothing in law to presume that a person once qualified is always qualified and there cannot be a presumption that there will not be a better qualified person than that of the 4th respondent for being appointed. Therefore, according to the learned Senior Counsel for the appellants, the findings rendered by the learned single Judge contrary to the said proposition is fundamentally incorrect and without any legal foundation.

14. It is further submitted that even though there is no dispute for the appointing authority or for the State that the 4th respondent has not crossed the age of 60 on the date of issuance of Ext. P5 notification dated 23rd November, 2021 appointing the 4th respondent as the Vice Chancellor with effect from 24th November, 2021, the learned single Judge ought to have conducted a scrutiny as to whether a valid application following Ext. P2 notification was made by the 4th respondent with respect to the prescription of age as provided under Section 10(9) of Act, 1996.

15. It is also submitted that if the 4th respondent did not make an application, the prohibition stipulated under sub-Section (9) of Section 10 of Act, 1996 will disentitle him from being considered for the post. It is also pointed out that when the law does not permit and

on the other hand, there is a statutory prohibition in appointing a person, who has crossed the age of 60 years, the learned single Judge ought to have considered as to whether the 4th respondent had crossed the age and thereby, disabled from being appointed in the guise of re-appointment, for which there is no distinction in law and on facts.

16. The learned Senior Counsel has also invited our attention to the judgments of the Apex Court in ***Union of India and others v. Lt. Gen. Rajendra Singh Kadyan and another*** [(2000) 6 SCC 698], ***Lieutenant General Ravi Dastane, AVSM, VSM v. Union of India, Ministry of Defence through the Secretary and other*** [2019 (4) SCC 747] & ***Integral University and others v. Junaid Ahmad and others*** [(2018) 14 SCC 739] and a Full Bench judgment of this Court in ***Radhakrishnan Pillai v. Travancore Devaswom Board*** [2016 (2) KLT 245 (F.B.)] in regard to the eligibility/ qualifications/ relevance and importance of UGC Notification etc. and also, the judgment of the Apex Court in ***B.R. Kapur v. State of T.N. and another*** [(2001) 7 SCC 231] to impress upon us the parameters and requirements of law in the matter of issuance of a writ of *quo warranto*.

17. On the other hand, the learned Advocate General and the learned Senior Counsel for the 4th respondent as well as the learned Standing Counsel for the Kannur University have addressed arguments

relying upon Section 10 of the Act, 1996 and supported the reasons, findings and the conclusions of the learned single Judge, and further have reliance upon the judgments of various High Courts wherein substantially similar question was considered.

18. The learned Senior Counsel appearing for the Chancellor submitted that Annexure A2 Press Release produced along with the reply affidavit filed by the appellants was issued by the Public Relations Officer in the matter of issuance of the notification inviting application for selection of the Vice Chancellor and the consequential developments that have taken place up till the re-appointment of the 4th respondent as the Vice Chancellor of the Kannur University.

19. We have evaluated the rival submissions made across the Bar. The fundamental issue raised in the appeal revolves around Section 10 of the Act, 1996 dealing with the appointment of the Vice Chancellor, which reads thus:

10. The Vice-Chancellor

- (1) The Vice-Chancellor shall be appointed by the Chancellor on the recommendation of a committee appointed by him for the purpose (hereinafter referred to as the committee).
- (2) The committee shall consist of three members, one elected by the Senate, one nominated by the Chairman of the University Grants Commission and the third nominated by the Chancellor.

(3) The Chancellor shall appoint one of the members of the committee to be its convenor.

(4) The committee shall make its recommendation within a period of three months of its appointment or within such further period, not exceeding one month, as the Chancellor may specify in this behalf.

(5) In case the committee unanimously recommends the name of only one person, the Chancellor shall appoint that person to be the Vice-Chancellor.

(6) In case the committee is unable to recommend a name unanimously, it may submit a panel of three names to the Chancellor within the period specified in or under sub-section (4) and the Chancellor shall appoint one of the persons in the panel to be the Vice-Chancellor.

(7) In case the committee fails to make a unanimous recommendation as provided in sub-section (5) or to submit a panel as provided in sub-section (6), each member of the committee may submit a panel of three names to the Chancellor and the Vice-chancellor shall be appointed from among the persons mentioned in the panels.

(8) Non-submission of a panel under sub-section (7) by any member of the committee shall not invalidate the appointment as Vice-Chancellor.

(9) No Person who is more than sixty years of age shall be appointed as Vice-Chancellor

(10) The vice-Chancellor shall, hold office for a term of four

years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that a person shall not be appointed as Vice- Chancellor for more than two terms.

20. On an analysis of the said provision, it is clear that the Vice Chancellor shall be appointed by the Chancellor on the recommendation of a committee appointed by him for the purpose. In the case on hand, the appointment of the 4th respondent in the year 2017 for a period of 4 years in contemplation of sub-Section 10 of Section 10, and in contemplation of law is admitted. It is also an admitted fact that the eligibility and qualification of the 4th respondent at the initial stage of appointment is undoubted. It is also quite clear and evident from the provisions of Section 10 that a clear cut procedure and modalities are prescribed in the said provision to select the Vice Chancellor.

21. One of the important aspects that is to be noted is that as per sub-Section 9 of Section 10, it is clearly specified that no person who is more than sixty years of age shall be appointed as Vice-Chancellor. But, when it comes to sub-Section 10 of Section 10, it is made explicit that the vice-Chancellor shall hold office for a term of four years from the date on which he enters upon his office and shall

be eligible for re-appointment. However, interdiction is made as per the proviso thereto, by making it clear that, a person shall not be appointed as Vice Chancellor for more than 2 terms. It is significant to note that sub-Section 10 of Section 10 of Act, 1996 is conjunctive in nature and not distinctive. Which thus means, the statute itself has made a clear cut procedure with respect to the re-appointment and has made it clear that the Vice Chancellor who holds the office for a term of 4 years consequent to the initial appointment, shall be eligible for re-appointment.

22. No doubt, if there is any manner of shortcomings on the part of the Vice Chancellor initially appointed, so as to affect the academic excellence, moral issues or otherwise to have any adverse consequence to hold the post of Vice Chancellor, it would be different. But, this is a case where the appellants have not raised any sort of such allegations against the 4th respondent. Merely because a notification was issued to conduct a selection, that by itself will not dissuade the Government/Chancellor to recommend and re-appoint the existing Vice Chancellor.

23. The paramount contention in that context advanced by the learned Senior Counsel for the appellants is that Ext. P1 regulations of the UGC were not followed. Regulation 7.3 of the Regulations, 2018

deals with 'the Vice Chancellor' and it reads thus:

“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 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.”

24. On an analysis of the Regulations of the UGC, it is evident that clear parameters are provided in the matter of selection of the Vice Chancellor. There is no case for the appellants that the 4th respondent is not having the qualifications as are prescribed under the UGC Regulations. In fact, no allegations or specific pleadings are made in the writ petition or in the appeal to show that the 4th respondent has acquired any sort of incompetency during his original tenure as prescribed under the extant laws so as to disqualify the 4th respondent for re-appointment.

25. Learned Advocate General has invited our attention to Appendix I of the UGC Regulations, 2010 and specifically to clause 8(f) dealing with the age of superannuation, wherein it is specified that consequent on the upward revision of the age of superannuation of teachers, the Central Government has already authorized the Central Universities, vide Department of Higher Education D.O. letter No.F.1-24/2006-Desk(U) dated 30.3.2007 to enhance the age of

superannuation of Vice Chancellors of Central Universities from 65 years to 70 years, subject to amendments in the respective statutes, with the approval of the competent authority. Therefore it is submitted that, in the UGC Regulations, 2018, no age limit is denoted and therefore, the State is at liberty to fix the age limit at its discretion. Whatever that be, we find force in the contention of the learned Advocate General as well as the learned Senior counsel for the 4th respondent that it is only for the appointment, the age limit of 60 years is prescribed under the University laws, which is not applicable to the re-appointment. This we say because, under the law, a person otherwise qualified can be appointed just before he or she completes the age of sixty years and the law permits the appointee to continue in service unruffled by the age bar.

26. The learned Advocate General has invited our attention to the judgment of a learned Division Bench of the Rajasthan High Court in ***S.B. Chaturvedi vs G.C. Chatterjee And Ors*** [1959 0 AIR (Raj) 260], wherein a similar question in regard to the appointment of the Vice Chancellor of the University of Rajputana was considered and it is held as follows:

“6. This brings us to the main question in this case, namely whether the procedure provided in Section 12 (1) of the Act is

necessary to be gone through when a person is reappointed Vice-Chancellor for a second term in continuation of his first term. The relevant provisions of Section 12 leaving out Sub-section (4), which is immaterial for present purposes, are these:--

"(1) The Vice-Chancellor shall be appointed by the Chancellor in the following manner:--

A Committee of three persons, two of whom shall be persons not connected with the University or any affiliated college, recognised school or approved institution, nominated by the Syndicate and one person nominated by the Chancellor, who shall also appoint one of the three as Chairman of the Committee shall select not less than three persons and shall report its selection to the Syndicate. The Syndicate shall make its recommendations on the persons so selected to the Chancellor, who shall appoint one of such persons as Vice-Chancellor.

(2) The Vice-Chancellor shall be a whole time officer of the University. He shall hold office for a term of three years, but may, subject to the provisions of Sub-section 3, be re-appointed for a second term of three years in continuation of the first term.

(3) No person shall hold the office of the Vice-Chancellor for more than two terms."

7. The reappointment, as will be clear, is provided for in Sub-section 2. On first flush it does appear as if the Act contemplated that the procedure provided in sub-section 1 would have to be gone through even when there is a reappointment of a person in continuation of his first term. But a close examination of the three

sub-sections dealing with the matter has convinced us that in the case of reappointment in continuation of the first term, it is not necessary that the procedure provided by Sub-section 1 should be gone through and it would be enough if the order of reappointment is made, by the Chancellor.

8 . Let us examine the three sub-sections closely and see what they exactly provide. Sub-section 1 provides for the appointment of the Vice-Chancellor by the Chancellor and the procedure prescribed is this. At the first stage, a committee of three members, whose qualifications are laid down in the sub-section has to select not less than three names and report its selection to the Syndicate. At the second stage, the Syndicate has to make its recommendations about the three persons so selected to the Chancellor. Lastly the Chancellor appoints one of such persons as Vice-Chancellor. Thus the procedure is (1) selection of three names by the committee, (2) recommendation on these names by the Syndicate and (3) appointment of one of these by the Chancellor.

9 . Sub-section 2 prescribes the terms of office of the Vice Chancellor and lays down that subject to the provisions of Sub-section 3, the Vice-Chancellor may be reappointed for a second term of three years in continuation of the first term. Then follows sub- section 3 which lays down that no person shall hold the office of the Vice-Chancellor for more than two terms.

10. Now if it was the intention of the legislature that in the case of a reappointment under Sub-section 2, the same procedure should

be followed as provided in sub-section (1) we do not see what necessity there was for the following words in subsection 2 "but may, subject to the provisions of sub-section 3, be re-appointed for a second term of three years in continuation of the first term." These words would, in our opinion, be completely unnecessary if the intention of the legislature was that such reappointment is in continuation of the first Term shall also be according to the provisions of Sub-section 1. If we omit these words from subsection (2) then, in our opinion, the contention on behalf of the applicant would be correct. With the omission of these words, Sub-section 1 will provide the procedure for appointment, Sub-section 2 will provide the nature of the Vice-Chancellor's duty and the term of his office and Sub-section 3 would provide that no one shall be Vice-Chancellor for more than two terms. The addition therefore, of these words in subsection 2 must have some significance and that significance, in our opinion only is that a reappointment in continuation of the first term may be made under Sub-section 2 by the Chancellor without going through the procedure prescribed in Sub-section 1, for such reappointment is merely an extension of the services of the Vice-Chancellor for a second term. The matter would be different if the second term was not in continuation of the first term and there was a gap between the two terms. In that case, of course, the procedure under Sub-section 1 must be followed. But where the second term is in continuation of the first term and is thus an extension in effect, sub-section 2 comes into play. The only lacuna in sub-section 2 is

that after the words "be reappointed", the person making the reappointment is not specified. But it seems to us that the Chancellor who is the appointing authority under sub-section 1 must be clearly understood to be the person reappointing for a second term in continuation of the first term. The reason for this interpretation of Sub-section 2 is this. Where a fresh appointment is to be made, Sub-section 1 provides for a selection committee and the recommendation of the Syndicate. But where the term of the same person is being extended in continuation of the first term, there does not appear to us any necessity for a selection committee and also for the recommendation of the Syndicate, for the person whose term is to be extended has already gone through these two stages, namely selection by a committee and recommendation by the Syndicate. It was pointed out that in this case the recommendation of the Syndicate was made and thereafter the Chancellor made the reappointment. That may be so. But as we read sub-section 2, the recommendation of the Syndicate is not necessary, though of course it is open to the Chancellor to consult any University authority before making the reappointment. The mere fact that the Chancellor in this case consulted the Syndicate or acted on its recommendation would not make any difference to the interpretation of sub-section 2. We are of the opinion that the last words of subsection 2 which we have quoted above really mean that a Vice-Chancellor can be reappointed for a second term in continuation of the first term by the Chancellor and no other formality is necessary. We have no hesitation in coming to the

conclusion that the words "by the Chancellor" have been left out after the words "be reappointed" and before the words "for a second term" in this part of sub-section 2. But that is because the appointing authority is the Chancellor and he must also be understood to be the reappointing authority under sub-section 2. The conclusion, therefore, at which we arrive is this. Where the appointment is to be made for the first time or which the same person is being appointed a second time, but not in continuation of the first term, the procedure provided under sub-section 1 must be gone through. But where the appointment is in continuation of the first term, Section 12 (2) comes into play and it is remarkable that it is only subject to the provisions of Sub-section 3 and not of Sub-section 1. If it was to be subject to the provisions of Sub-section 1 also, there was no reason why the words should not have been "subject to the provisions of Sub-sections 1 and 3." The omission of Sub-section 1 at this place in Sub-section 2 also confirms the view that we take, namely that where it is a case of reappointment in continuation of the first appointment, all that is necessary is an order of reappointment by the Chancellor, provided of course Sub-section 3 is not violated. ”

27. Similarly, the learned Senior Advocate Sri. Ranjith Thampan has invited our attention to the judgment of the High Court of Jammu and Kashmir in ***NGOs Coordination Fed v. State & Ors.*** [2008 (2) JKJ 341] dealing with the re-appointment of the Vice Chancellor,

wherein it is held as follows:

“3. Phraseology employed in the provision extracted above unveils vesting of the power of appointment as also reappointment in the Chancellor but the basic entry has to be made, out of the panel to be prepared by committee, constitution whereof, is spelt out in sub section (1) itself. The appointment of the respondent Vice Chancellor having come into being by due adherence to the procedure contained in the sub section (1), therefore, no grievance was registered ever. The grouse originates from non adherence to the mandate of sub section (1) at the stage of, reappointment only. But does the scheme of the re-appointment admit any requirement of drawing of a panel by the selection committee, sub section (2) assumes significance so as to find out as to whether any such prohibition does exist-therein, but its reading clearly shows that the condition of drawing of a panel prescribed in sub section (1) has not been incorporated in sub section (2). Had it been the intention of the Legislature, nothing prevented it to prescribe so and in absence of having provided for selection for reappointment by selection committee, anything said to the contrary would amount to rewriting the statute by imposition of fetters of procedure on the discretion of the Chancellor requiring him to seek a fresh panel for re-appointment of a Vice Chancellor notwithstanding the fact that he virtually owes his appointment to the post of Vice Chancellor by strict adherence to the procedure stipulated in sub section (1). Viewed thus, we are of the opinion that re-appointment is the discretion of the Chancellor, provided basic entry of the person to be re-appointed is through a mode prescribed by sub section (1) of Section 25

of the Act which is not disputed in the case on hand Situated thus, we answer the question in the negative.”

28. So also, the learned Senior Counsel has invited our attention to the judgment of the Madras High Court in **N. Radhakrishnan v. the Registrar, University of Madras and Anr.** [1990 (1) MLJ 88] in regard to the question of re-employment and held as follows:

“13. The contention of the appellant that the re-employment/re-appointment must be in the same manner and method cannot be accepted since he has already undergone the prescribed procedure. The fact that at the time of appointment a particular Professor was qualified for appointment will speak for itself for re-appointment as well, unless he has suffered any disqualification during the period of his professorship. The Syndicate being the Supreme body for the University, it cannot be argued that it will act arbitrarily in the absence of guidelines. If any particular instance is brought to the notice of the Court establishing the arbitrary exercise of the power that can be questioned. In this case, there is nothing on record to show that the Syndicate has arbitrarily exercised the power in the matter of re-employment of the Second Respondent. We have gone through the cases cited by the learned Counsel for the appellant.

We are of the view that the principles laid down in those cases will have no application to the facts and circumstances of this case.”

29. The learned Senior Counsel Sri. Ranjith Thampan has also invited our attention to the Mahatma Gandhi University Act, 1985, Kerala Agricultural University Act, 1971, APJ Abdul Kalam Technological University Act, 2015 and the Thunchath Ezhuthachan Malayalam University Act, 2013, wherein all, an upper age limit is fixed even in the matter of re-appointment.

30. Therefore, after assimilating the factual and legal situations and understanding the issues, we are of the considered opinion that in the matter of re-appointment, the age bar prescribed under Section 10(9) for appointment of the Vice Chancellor would not come into play, because the Vice Chancellor who has appointed before attaining the age of 60 years, is entitled to continue for a term of four years and shall be eligible for re-appointment.

31. Taking into account all the above intrinsic aspects with regard to the appointment of the Vice Chancellor, eligibility, qualification etc., and also the relevant inputs of the UGC Regulations, 2018, we have no hesitation to hold that the learned single Judge was right in dismissing the writ petition. Even though various contentions were advanced and several judgments were cited by the respective Senior Counsel in regard to the intricacies of issuance of a writ of *quo*

warranto, we are not inclined to go into that question, since we find that the re-appointment of the 4th respondent was made in accordance with law, and therefore he can never be said to be an usurper to the post. Having rendered the findings as above, the arguments advanced strenuously by the learned Senior Counsel Sri. George Poonthottam, relying upon the term 'eligibility', contained under Section 10(10) of the Act 1996 in the matter of making re-appointment by referring to various legal dictionaries, we do not find much force in the same.

32. Before we part with the judgment, it is only appropriate that the Press release issued by the office of the Chancellor (Honourable Governor) of the University is discussed. On a perusal of Annexure A2 Press Release dated 03.02.2022, it is clear that right from the publication of selection notification dated 01.11.2021 issued on behalf of the selection committee uptill the reappointment are narrated.

33. Be that as it may, it is clearly specified in the Press Release that on 23rd November, 2021, Kerala Raj Bhavan issued a notification re-appointing the 4th respondent as the Vice Chancellor of the Kannur University. Other aspects are also dealt with in the Press Release, which we do not propose to traverse through, being unnecessary.

34. Taking into account the factual and legal circumstances

W.A. No. 1698/2021

: 26 :

deliberated above, we are of the clear and considered opinion that the appellants have not made out any case of jurisdictional error or other legal infirmities susceptible to be interfered with in the judgment of the learned single Judge.

Upshot of the above discussion is that the writ appeal fails and accordingly, it is dismissed.

sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

sd/-
SHAJI P. CHALY,
JUDGE.

Rv

APPENDIX

APPELLANTS' ANNEXURES:

ANNEXURE A1: TRUE COPY OF THE G.O.(P) NO.28/2019/HEDN DATED 29.09.2019 ISSUED BY THE GOVERNMENT.

ANNEXURE A2: TRUE COPY OF THE PRESS RELEASE DATED 03.02.2022 ISSUED FROM KERALA RAJ BHAVAN.

RESPONDENTS' ANNEXURES:

ANNEXURE R4(a): TRUE COPY OF THE DETAILED ACADEMIC TEACHING AND PROFESSIONAL EXPERIENCE OF THE 4TH RESPONDENT.

/True Copy/

PS To Judge.