

UGC Regulations Permit Appointment Of College Principal Only Through Direct Recruitment, Not Promotion: Kerala High Court

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**IN THE HIGH COURT OF KERALA AT ERNAKULAM
DEVAN RAMACHANDRAN, J.**

W.P (C) No.22124 of 2021; 25th day of October,2022

ALEYAMMA KURUVILA versus MAHATMA GANDHI UNIVERSITY

Petitioners: by Advs. K.B. Gangesh, Smitha Chathanarambath, Athira A. Menon, Amal S Kumar.

Respondent: by adv Surin George Ipe, SC, M.G. University

J U D G M E N T

The petitioners, who are the Principal-in-charge of St.Thomas College, Ranny and its Manager respectively, have approached this Court on the assertion that the former among them has been validly promoted to the post of Principal by the Educational Agency, under the sanction of Section 59(3) of the Mahatma Gandhi University Act, 1985, following the seniority cum fitness principle; and hence, praying that the Mahatma Gandhi University (MG University) – to which the College is affiliated - be directed to approve such appointment forthwith.

2. Sri.K.B.Gangesh – learned counsel appearing for the petitioners, pointed out that the only reason stated by the University in refusing the afore plea is that the “University Grants Commission Regulations on Minimum Qualification for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018” (‘UGC Regulations, 2018’ for short) do not provide for the appointment of Principal through promotion, but only through Direct Recruitment and therefore, that a Selection Committee ought to have been constituted in terms of the stipulations therein. Sri.K.B.Gangesh – vehemently argued that since the “UGC Regulations, 2018” provide only for constitution of a Selection Committee for the appointment of a Principal by direct recruitment and since there is no prohibition therein for making such appointment by an Educational Agency through promotion, the provisions of Section 59(3) of the MG University Act alone will apply. He concluded arguing that, there is no inconsistency between the two Statutes, since the MG University Act fills up a lacuna, which is found in the “UGC Regulations, 2018”.

3. Sri.Surin George Ipe – learned Standing Counsel for the MG University, on the other hand, submitted that, it is his client's specific case – which is guided by the various judgments of the Honourable Supreme Court, including the latest one delivered on 21.10.2022, namely, **Professor (Dr.) Sreejith P.C. v. Dr.Rajasree M.S & Ors. (Civil Appeal Nos.7634-7365 of 2022)** - that any appointment of a teacher to a College, in violation of the applicable UGC Regulations is void *abinitio*. He predicated that, therefore, his client was fully justified in having informed the College that they must appoint an appropriate person as Principal, only after selection through a valid Committee as stipulated under the “UGC Regulations, 2018”.

4. I must say that I find substantial force in the afore submissions of Sri.Surin George Ipe because, once the Hon'ble Supreme Court has delivered its judgment to the unmistakable effect that only a person who is appointed in terms of the “UGC Regulations, 2018” can continue to be a Teacher of a College, or that matter as an Officer of the University, the petitioners cannot rely upon Section 59(3) of the “MG University Act”, to maintain that “promotion” as Principal, on the basis of seniority cum fitness is tenable. This is not a case where the “MG University Act” or the “UGC Regulations, 2018” operate on

different fields, but one in which the latter excludes the appointment of Principal in a College through promotion.

5. Obviously, therefore, the submissions of Sri.K.B.Gangesh, that wherever there is a lacuna in the “UGC Regulations, 2018”, the “MG University Act” can apply, cannot appeal to me because, as I have already said above, said Regulations exclude the appointment of Principal otherwise than by selection and recruitment.

6. In the afore circumstances, I am left with little doubt that this Court cannot come to the aid of the petitioners and that the College must be directed to take appropriate action in terms of the “UGC Regulations, 2018”, if they want a full time Principal to occupy the post.

In the afore circumstances, I dispose of this Writ Petition with the following directions:

a) The 1st petitioner will continue as the Principal-in-charge of the College, until such time as a final selection in terms of the “UGC Regulations, 2018” is initiated and completed by the College, thus appointing a suitable person in office thereafter.

b) Needless to say, the requisite steps for appointing a full time Principal in terms of the “UGC Regulations, 2018” shall be initiated by the College without any further delay, taking note of the argument of the University that the Principal-in-charge cannot be allowed to continue for more than six months.

c) The 1st petitioner will certainly be entitled to participate in the process to be initiated by the College in terms of the afore directions and subject to her eligibility and qualifications, she will certainly be entitled to be appointed, if she is so found eligible by the constituted Selection Committee in terms of the “UGC Regulations, 2018”.

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