

THE UTTAR PRADESH STATE UNIVERSITIES ACT, 1973¹

[Act No. 10 of 1973]

As Amended by

U. P. Act No. 29 of 1974, U.P. Act No. 21 of 1975, U.P. Act No. 5 of 1977, U.P. Act No. 12 of 1978, U.P. Act No. 15 of 1980, U.P. Act No. 10 of 1982, U.P. Act No. 25 of 1982, U.P. Act No. 4 of 1983, U.P. Act No. 6 of 1983, U.P. Act No. 18 of 1984, U.P. Act No. 9 of 1985, U.P. Act No. 15 of 1986, U.P. Act No. 19 of 1987, U.P. Act No. 9 of 1988, U.P. Act No. 26 of 1989, U.P. Act No. 1 of 1992, U.P. Act No. 5 of 1994, U.P. Act No. 20 of 1994, U.P. Act No. 4 of 1995, U.P. Act No. 14 of 1995, President Act No. 4 of 1996, U.P. Act No. 12 of 1997, U.P. Act No. 18 of 1997, U.P. Act No. 9 of 1998, U.P. Act No. 10 of 1999, U.P. Act No. 11 of 1999, U.P. Act No. 20 of 1999, U.P. Act No. 21 of 1999, U.P. Act No. 1 of 2004, U.P. Act No. 23 of 2004, U.P. Act No. 28 of 2006, U.P. Act No. 5 of 2007, U.P. Act No. 6 of 2009 and U.P. Act No. 11 of 2010.

An Act to amend and consolidate the law relating to certain Universities.

²[It is hereby enacted as follows :]

CHAPTER I

PRELIMINARY

1. Short title, commencement and application.—This Act may be called the Uttar Pradesh State Universities Act, 1973.

(2) It shall come into force on such date as the State Government may, by notification in Gazette, appoint and different dates may be appointed in relation to different existing Universities and references to commencement of this Act in relation to an existing University shall be construed as the date on which this Act comes into force in relation thereto.

(3) In its application to the Varanaseya Sanskrit Vishvavidyalaya (which after the coming into force of this Act in relation to that University shall be called the Sampurnanad Sanskrit Vishvavidyalaya), the State Government may, ³[from time to time] by notification in the Gazette, make such exceptions or modifications not affecting the substance, in the provisions of this Act, as the circumstances may require.

1. Vide Notification No. 2978 (2)/XVII-V-1-170/72, dated 2 September, 1973.

2. Subs. U.P. Act No. 29 of 1974.

3. Ins. by U.P. Act No. 21 of 1975 (w.e.f. 2-5-1975).

(4) (a) In its application to the Kashi Vidyapith after it is established as a University under sub-section (2) of Section 4, the State Government may, by notification in the Gazette, make such exceptions or modifications not affecting the substance, in the provisions of this Act, as the circumstances may require.

(b) ¹[* * *]

COMMENTS

Construction of the Act.—If two construction of a particular Regulation are possible, it is not expedient for the High Court to reverse a decision of an educational authority on the ground that the construction placed by the said authority on the relevant regulation appears to the High Court less reasonable than the alternative construction which it is pleased to accept. It was held that the High Court should interfere with them only when it thinks, it must do so in the interest of justice. *Principal, Patna College v. K. S. Raman*, A.I.R. 1966 S.C. 707.

If there is a conflict between the ordinances and regulations, the ordinances will prevail and the regulations must stand out. *Aligarh Muslim University v. Nadir Raza Naqvi*, 1978 Labour and Industrial Cases 991; *Akshaibar Lal v. Vice-Chancellor*, A.I.R. 1961 S.C. 619.

2. Definitions.—In this Act, unless the context otherwise requires :

- (1) "Academic Council", "Court" and "Executive Council" means respectively the Academic Council, the Court and the Executive Council of the University;
- (2) "Affiliated College" means an institution affiliated to the University in accordance with the provisions of this Act and Statutes of that University;
- (3) "Area of the University" means the area specified in respect of the University by or under Section 5 or Section 4, as the case may be;
- (4) "Associated College" means any institution recognised by the University and authorised under the provisions of ²[this Act and the Statutes of the University] to provide for the teaching necessary for admission to a degree of the University;
- (5) "Autonomous College" means an affiliated or associated college declared as such in accordance with the provisions of Section 42;

³[(5-A) "The expression "other backward classes of citizens" shall have the same meaning as in the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994];

1. Omitted by U.P. Act No. 29 of 1974.

2. Subs. by Section 5 of U.P. Act No. 29 of 1974 for the words "this Act".

3. Ins. by Section 2 of U.P. Act No. 20 of 1994 (w.e.f. 15-7-1994).

- ¹[5-B) "*Central Board of Studies*" means the Central Board of Studies referred to in Section 18-B];
- (6) "*Constituent College*" means an institution maintained by the University or by the State Government and named as such by the Statutes;
- ²[(6-A) "*Co-ordination Council*" means the Co-ordination Council constituted under-Section 18-A];
- (7) "*Director*" in relation, to an Institute, means the head of such Institute;
- (8) "*Existing University*" means the University of Lucknow, ³[* * *], Agra ⁴[which shall from September 24, 1995 be called Doctor Bhimrao Ambedkar University, Agra, Gorakhpur, ⁵[which shall with effect from the date of the commencement of the Uttar Pradesh State Universities (Second Amendment) Act, 1997 be called Deen Dayal Upadhyaya, Gorakhpur University, Gorakhpur], Kanpur ⁶[which shall be called Shri Shahu Ji Maharaj University, Kanpur with effect from September 24, 1995 and Chhatrapati Shahu Ji Maharaj University, Kanpur with effect from the date of commencement of the Uttar Pradesh State Universities (Amendment) Act, 1997] or Meerut ⁷[which shall from January 17, 1994 be called Chaudhary Charan Singh University, Meerut] or the Sampurnanand Sanskrit Vishvavidyalaya, as the case may be;
- (9) "*Faculty*" means a faculty of the University;
- ⁸[(9-A) "*Foundation course*" means a course of greater awareness of oneself and of the social, cultural and natural environment];
- (10) "*Hall (or college) of a University*" means a unit of residence for students maintained or recognised by the University at which provision is made for imparting tutorial and other supplementary instructions;
- (11) "*Hostel of a University*" means a unit of residence for students maintained or recognised by the University, other than a hall, and "*hostel of an affiliated or associated college*" means a unit of residence for students of that college;
- (12) "*Institute*" means an Institute established by the University under Section 44;

1. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

2. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

3. The word "Allahabad" omitted by Act No. 26 of 2005 (w.e.f. 14-7-2005). Now Sec : University of Allahabad Act, 2005 (26 of Act), p. No. 141.

4. Ins. by President's Act No. 4 of 1996 (w.e.f. 23-9-1995).

5. Ins. by U.P. Act No. 18 of 1997 (w.e.f. 16-8-1997).

6. Subs. by Section 206 of U.P. Act No. 12 of 1997.

7. Ins. by Section 206 of U.P. Act No. 5 of 1994 (w.e.f. 17-1-1994).

8. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

- (13) "*Management*" in relation to an affiliated or associated college means the Managing Committee or other body charged with managing the affairs of that college and recognised as such by the University;
- ¹[Provided that in relation to any such college maintained by a Municipal Board or a Nagar Mahapalika, the expression "*Management*", means the Education Committee of such Board or Mahapalika as the case may be and the expression "*Head of Management*" means the Chairman of such Committee];
- (14) "*Prescribed*" means prescribed by Statutes;
- (15) "*Principal*", in relation to an affiliated, associated or a constituent college, means the head of such college;
- (16) "*Registered graduate*" means a graduate of the University registered under the provisions of this Act or under any enactment repealed by this Act;
- (17) "*Statutes*", "*Ordinances*" and "*Regulations*" means respectively the Statutes, Ordinances and Regulations of the University;
- ²[(18) "*Self finance course*" means a course with respect to which a financial liabilities shall be borne by the Management of an associated or affiliated college or by a University];
- ³[(19) "*Teacher*" in relation to the provisions of this Act except Chapter XI-A, means a person employed in a University or in an institute or in a constituent or affiliated or associated college of a University for imparting instructions or guiding or conducting research in any subject or course approved by that University and includes Principal or Director];
- (20) "*University*" means an existing University or a new University established after the commencement of this Act under Section 4;
- (21) "*Working Men's College*" means an affiliated or associated college recognised as such in accordance with the provisions of Section 43.

SYNOPSIS

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| 1. Difference between "affiliated" and "associated" Colleges. | 5. Discrimination—Constitution of India, 1950,—Article 14—U.P. State Universities Act, 1973. |
| 2. Meaning of 'University'. | 6. Review—Power of Vice-Chancellor. |
| 3. Recognition by the University. | 7. Public Service and post. |
| 4. The word "means" when used in definition clause. | |

1. Ins. by U.P. Act No. 12 of 1978.

2. Subs. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

3. Subs. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

1. *Difference between "affiliated" and "associated" Colleges.*—Those colleges which are recognised by the residential Universities are known as associated colleges, and those colleges which get recognition from residential-cum-affiliating and affiliating Universities are known as affiliated colleges. Both types of these colleges are privately run colleges. *Miss Meena Mukherji v. Chancellor, Allahabad University*, A.I.R. 1972 All 381.

2. *Meaning of 'University'*—Incorporation of the University by law means establishment and incorporation of University by an enactment relating to the incorporation of the University in exercise of the legislative powers given in Item 32 or the State List in VII Schedule or the Constitution of India. Hindi Sahitya Sammelan is merely a Society registered under the Societies Registration Act and as such, it cannot be called a University. *Babu Lal v. Vice-Chancellor, Rewa*, 1975 M.P.L.J. 620.

The word "University" means University established by law in the State of Uttar Pradesh. It can on no account mean a University established by law in the State of Nepal. The degree of the Universities established in other countries have to be expressly recognised on the principle of reciprocity. *Ram Surat v. Satya Narain*, 1972 Labour and Industrial Cases 255.

3. *Recognition by the University.*—A decision of the Executive Council under Statute 27-A framed under the Agra University Act would amount to recognition by the University, within the meaning of the above sub-clause because no specific mode of recognition has been prescribed under the Act. *P.C. Sikand v. Vice-Chancellor, Agra University*, 1979 All. L.J. (N.O.C.), 801 (D.B.).

4. *The word "means" when used in definition clause.*—When a particular word is defined to "mean" such and such, that definition is *prima facie* restrictive and exhaustive. *Vanguard Fire and General Insurance Co. Ltd. v. Fraser and Ross*, A.I.R. 1960 S.C. 971

5. *Discrimination—Constitution of India, 1950—Article 14—U.P. State Universities Act, 1973*—It defines "Constituent College"—Read with first statute of Lucknow University. Statute No. 12.01, Section 2 (19), in this "teacher of the University" has been defined. In the G.O. dated 23-10-97, certain retiral benefits like addition of *ad hoc*, Administrative and temporary in total service length and including non-practising allowance in pay in committing retiral benefits have been provided. These benefits are refused by the respondents to the teachers of the Lucknow Medical College. It was held that the Lucknow Medical College is a constituent College as per Section 2 (6) and Statute 12.01 and teachers of Medical College are teachers of the University as per Section 2 (19). Therefore, claim of petitioners teachers of Medical College is denied because of violation of Article 14. It was considered a case of clear discrimination. *Dr. A.R. Sircar v. State of U.P.*, (2002) 1 U.P.L.B.E.C. 615 (All.).

6. *Review—Power of Vice-Chancellor*—In a certain case, where a question arise whether the Vice-Chancellor has got a power of review in respect of granting recognition to the Committee of Management of an institution, in such an event, it was held that power of review is a power created by the statute and no such power is available to the Vice-Chancellor under the Universities Act or statute of Gorakhpur University.—*Jawwad Ali Shah Inumbara Muslim Girls Degree College Society, Gorakhpur and others v. Vice-Chancellor, Deen Dayal Upadhyay, Gorakhpur University and others*, (2007) 1 U.P.L.B.E.C. (Sum) 54 (All.).

7. *Public Service and post.*—These words are contained in Section 2 (c) (iv) of U.P. State Universities Act, 1973. The word "Professor" has been defined in Section 2 (19) of the Act. As a result, the view adopted by the Division Bench in the case of *Dr. Vipin Agrawal v. University of Allahabad*, 1997 (3) ESC 1710 (All) (DB) is not correct that it comes within Section 2 (c) (iv). Thus, the word "Professor" is covered by Section 2 (19) also.—*Dr. Jagdamba Singh and others v. Vice-Chancellor, University of Allahabad and another*, (2010) 3 U.P.L.R.E.C. 2563.

CHAPTER II

THE UNIVERSITIES

3. *Incorporation of Universities.*—(1) The Chancellor, the Vice-Chancellor and the members of the Executive Council, the Court and the Academic Council for the time being holding office as such in any University shall constitute a body corporate by the name of that University.

(2) Each University shall have perpetual succession and a common seal and shall sue and be sued by its name.

COMMENT

Registrar not a legal entity—Under sub-section (2) of Section 3 of this Act, a University has perpetual succession and a common seal and the University is entitled to sue and to be sued by its name. The Registrar of the University is not a legal entity, therefore he is not entitled to sue or to be sued. If he is authorised by rule or otherwise, he may be competent to sign the pleadings on behalf of the University, but he cannot sue or be sued as a Registrar. In such a suit, no relief can be granted against the University. *Commissioner of Taxes v. Golak Nath*, A.I.R. 1979 Gauhati 10.

4. *Establishment of new Universities and alteration of the areas or names of Universities.*—(1) With effect from such date as the State Government may by notification in the Gazette appoint in that behalf, there shall be established a University of Kumaun at Naini Tal and a University of Garhwal¹ [which shall from April 25, 1989 be called the Hemvati Nandan Bahuguna Garhwal University] at Srinagar (District Garhwal) of the areas respectively specified in the Schedule.

²[(1-A) With effect from such date or dates as the State Government may by notification in the Gazette appoint in this behalf, there shall be established—

(a) a University of Bundelkhand at Jhansi;

(b) a University of Avadh at Faizabad³ [which shall be called the Doctor Ram Manohar Lohia University, Faizabad with effect from June 18, 1994, and the Doctor Ram Manohar Lohia Avadh University, Faizabad with effect from July 11, 1995]⁴ * * *]

1. Ins by Section 206 U.P. Act No. 26 of 1989 (w.e.f. 24-4-1989).

2. Ins. by U.P. Act No. 29 of 1974.

3. Subs. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

4. Omitted by U.P. Act No. 19 of 1987.

- (c) a University of Rohilkhand at Bareilly ¹[which shall with effect from the date of the commencement of the Uttar Pradesh State Universities (Second Amendment) Act, 1997 be called Mahatma Jyotiba Phule Rohilkhand University, Bareilly];
- ²[(d) a University to be known as Purvanchal University at Jaunpur, which shall, with effect from the date of commencement of the Uttar Pradesh State Universities (Amendment) Act, 1999, be called "Vir Bahadur Singh Purvanchal University, Jaunpur],
- ³["(e) a University to be known as the Urdu, Uttar Pradesh Arabi Pharsi University at Lucknow."]

for the areas respectively specified in the Schedule.

(1-B) in relation to the Universities to be established under sub-section (1-A)—

- (a) the State Government shall appoint interim officers of the Universities (other than the Chancellor) and shall constitute interim authorities of such Universities in such manner as it thinks fit;
- ⁴[(b) the officers appointed and members of the authorities constituted under Clause (a) shall hold office ⁵[* * *] until the appointment of officers or the constitution of the authorities in accordance with Clause (c) ⁶[or such other earlier date as may be specified by the State Government in this behalf];
- ⁷[Provided that the State Government may, by notification extend the term of the member of such authorities for a period not exceeding one year].
- (c) the State Government shall take steps for the appointment of officers and constitution of authorities of such Universities in accordance with the provisions of this Act, so that the same may be completed before the expiry of the respective terms of the interim officers and members under Clause (b)].

(2) With effect from such date as the State Government may, by notification in the Gazette, appoint in that behalf the institution known as Kashi Vidyapith at Varanasi shall be deemed to be a University established under the provisions of this Act ⁸[which shall be called Mahatma Gandhi Kashi Vidyapith, Varanasi with effect from July 11, 1995].

(3) As from the date appointed under sub-section (2)—

- (i) the society known as the Kashi Vidyapith, Varanasi shall be dissolved, and all property movable and immovable, and rights,

1. Ins. by U.P. Act No. 18 of 1997 (w.e.f. 16-8-1997).
 2. Subs. by U.P. Act No. 11 of 1999 (w.e.f. 8-1-1999).
 3. Ins. by U. P. Act No. 11 of 2010 (w.e.f. 1-10-2009).
 4. Subs. by U.P. Act No. 12 of 1978.
 5. Deleted by U.P. Act No. 19 of 1987.
 6. Subs. by U.P. Act No. 19 of 1987.
 7. Ins. by U.P. Act No. 5 of 1977.
 8. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

powers and privileges of the society shall be transferred to the vest in the University and shall be applied to the objects and purposes for which the University is established;

- (ii) all debts, liabilities and obligations of the said society shall be transferred to the University and shall thereafter be discharged and satisfied by it;
- (iii) all references in any enactment to the said society shall be construed as reference to the University;
- (iv) any will, deed or other document, whether made or executed before or after the commencement of this Act which contains any request, gift or trust in favour of the said society shall be construed as if the University was therein named instead of such society;
- (v) subject to the provisions of this Act, every person employed immediately before the said date in the said society shall with effect from that date, become an employee of the University by the same tenure and upon the same conditions of service or conditions as similar thereto as changed circumstances may permit, as he would have held under the said society, if such notification had not been issued.

(4) The State Government may, by notification in the Gazette—

- (a) increase the area of a University;
- (b) diminish the area of a University; or
- (c) alter the name of a University;

Provided that no such notification shall be issued except with the previous approval by resolution, of both the Houses of the State Legislature.

(5) Any notification under this section may contain such provision of the amendment of the Schedule, and the Statutes, Ordinances and Regulations of the University or Universities affected by such notification as may be necessary to give effect to the provisions of the notification and thereupon the Schedule and such Statutes, Ordinances and Regulations shall stand amended accordingly.

(6) Without prejudice to the generally of the provisions of sub-section (5), any notification under this section may provide for the following matters namely—

- (a) provisions in respect of representation of various interests or classes of persons in the authorities of the University or Universities affected by the said notification;
- (b) provisions for exercise of option by registered graduates of any then existing University to continue to remain registered graduates of same University or to get registered with a newly-established University so, however, that no person shall be registered graduate of more than one University;
- (c) such other supplement, incidental and consequential provisions as the State Government may deem necessary.

Explanation.—For the purposes of this section and Section 5 “Kashi Vidyapith” means the institution known as Kashi Vidyapith at Varanasi established and administered by the Society known as Kashi Vidyapith registered under the Societies Registration Act, 1860 (21 of 1860) in respect of which the Nirikshak Sabha of the said Society has passed a resolution on 28th May, 1972 requesting the State Government to take over the entire movable and immovable properties of the said institution and to convert it into a State University.

5. Territorial exercise of powers.—(1) Save as otherwise provided by or under this Act. The powers conferred on each University (other than the Sampurnanad Sanskrit Vishvavidyalaya ¹[* * *]) shall be exercisable in respect of the area for the time being specified against it in the Schedule.

(2) The Sampurnanand Sanskrit Vishvavidyalaya may affiliate institutions situated in any part of the territory of India and recognize teachers of, and admit to its examinations candidates from such territory or abroad :

Provided that the Vishvavidyalaya shall not—

- (a) affiliate an institution outside Uttar Pradesh, or
- (b) recognize any teacher employed in an institution situated outside Uttar Pradesh and maintained by any Government;

except upon the recommendation of the Government concerned.

(3) ²[* * *]

(4) Notwithstanding anything contained in sub-section (1), the powers conferred on the ³⁴[Chhatrapati] Shahu Ji Maharaj University, Kanpur] in respect of institution and research in the Ayurvedic and Unani systems of medicine and advancement and dissemination of knowledge thereof shall be exercisable throughout Uttar Pradesh.

⁵{(5) Notwithstanding anything contained in sub-section (1) the homoeopathic educational or instructional institutions throughout Uttar Pradesh may be affiliated to the ⁶[Doctor Bhimrao Ambedkar University, Agra or ⁷[Chhatrapati] Shahu Ji Maharaj University, Kanpur]].

⁸{(6) Notwithstanding anything contained in sub-section (1) or sub-section (1) of Section 37, the institutions established or proposed to be established for imparting education or instruction in Western Medical Science as defined in the

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1. Uttar Pradesh State Universities (Amendment) Act, 2008, omitted by U.P. Act No. 6 of 2009 [received assent of the Governor on 24-2-2009 and published on 25-2-2009 in U.P. Gazette, Extra-ordinary, Part 1, Section (a)].
 2. Uttar Pradesh State Universities (Amendment) Act, 2008, omitted by U.P. Act No. 6 of 2009 [received assent of the Governor on 24-2-2009 and published on 25-2-2009 in U.P. Gazette, Extra-ordinary, Part 1, Section (a)].
 3. Subs. by President's Act No. 4 of 1996 (w.e.f. 23-9-1995).
 4. Subs. for “Shri” by U.P. Act No. 12 of 1997.
 5. Ins. by U.P. Act No. 14 of 1977.
 6. Subs. by President's Act No. 4 of 1996 (w.e.f. 23-9-1995).
 7. Subs. for “Shri” by U.P. Act No. 12 of 1997.
 8. Ins. by President's Act No. 4 of 1996 (w.e.f. 25-8-1995).

Indian Medical Degrees Act, 1916, engineering technology or management anywhere in Uttar Pradesh may, subject to such directions as may be issued by the State Government in this behalf, be affiliated to any University].

¹[(7) Notwithstanding anything contained in sub-section (1) the powers conferred on the Uttar Pradesh Urdu, Arabi, Pharsi University at Lucknow in respect of education and research in Urdu, Arabic and Persian and advancement and dissemination of knowledge thereof shall be exercisable throughout Uttar Pradesh.]

COMMENT

Affiliation to Degree College by University.—In a certain case, where the petitioner-degree college was situate at Allahabad, it was given an affiliation by the Veer Bahadur Singh, Purvanchal University (Jaunpur University), but by Amendment of Schedule by U.P. Act No. 28 of 2006 [U.P. State University (Amendment) Act, 2006], entire district of Allahabad was transferred to territorial jurisdiction of Kanpur University (Chhatrapati Shahuji Maharaj University, Kanpur). Thus, the petitioner college was asked to obtain its affiliation from Kanpur University. No objection certificate granted earlier to the petitioner college can be of no use. *Committee of Management, Indrasas Kumari Memorial Degree College, Anapur, Allahabad v. State of U.P. and others*, (2007) 2 U.P.L.B.E.C. 1733 (All.).

6. University open to all classes and creed.—The University shall be open to all persons irrespective of class or creed, but nothing in this section shall be deemed to require the University to admit to any course of study a larger number of students than may be determined by the Ordinances :

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for admission of students belonging to ²[the Scheduled Castes, the Scheduled Tribes or Other Backward Classes of citizens].

7. Powers and duties of the University.—The University shall have the following powers and duties, namely—

- (1) to provide for instruction in such branches of learning as the University may think fit, and to make provisions for research and for the advancement and dissemination of knowledge;
- (2) to admit any college to the privileges of affiliation or recognition or to enlarge the privileges of any college already affiliated or recognised, as the case may be, or to withdraw or curtail any such privilege and to guide and control the work of affiliated and associated colleges;
- (3) to institute degrees, diplomas and other academic distinctions;
- (4) to hold examinations for and to grant and confer degrees, diplomas and other academic distinctions to and on persons, who—
 - (a) have pursued a course of study in the University, a constituent college or an affiliated college, or associated college; or

1. Ins. by U. P. Act No. 11 of 2010 (w.e.f. 1-10-2009).

2. Subs. by U.P. Act No. 20 of 1994 (w.e.f. 15-7-1994).

- (b) have carried on research in the University or in any institution recognised in that behalf by the University or independently, under conditions laid down in the Statutes and the Ordinances; or
 - (c) have pursued a course of study by correspondence whether residing within the area of the University or not, and have been registered by the University, subject to such conditions as may be laid down in the Statutes and Ordinances as external candidates; or
 - (d) are teachers or other employees in the University or in an Institute or in a constituent or affiliated or associated college or in any other educational institution under conditions laid down in the Statutes and the Ordinances or are inspecting officers permanently employed in the Department of Education of the State Government and have carried on private studies under conditions laid down in the Statutes and the Ordinances; or
 - (e) are women residing within the area of the University and have carried on private studies under conditions laid down in the Statutes and Ordinances; or
 - (f) are blind and are residing within the area of the University and have carried on private studies under conditions laid down in the Statutes and the Ordinances.
- (5) to hold examinations for and to grant the degree of Bachelor of Arts or Commerce or Master of Arts or Commerce to persons residing within the area of the University who have carried on private studies under conditions laid down in the Statutes and the Ordinances;
 - (6) to confer honorary degree or other academic distinction in the manner and under conditions laid down in the Statutes;
 - (7) to grant such diplomas to, and to provide such lectures and instructions for persons, not being students of the University, as the University may determine;
 - (8) to co-operate or collaborate with other Universities and authorities in such manner and for such purposes as the University may determine;
 - (9) to institute teaching posts required by the University and to appoint persons to such posts;
 - (10) to recognize teachers for giving instruction in halls;
 - (11) to lay down the conditions of affiliation or recognition of colleges and to satisfy itself by periodical inspection and otherwise that those conditions are satisfied;
 - (12) to institute and award scholarships, fellowships (including travelling fellowship), studentships and prizes in accordance with the Statutes and the Ordinances;

- (13) to institute and maintain halls and hostels and to recognize places of residence for students of the University, the Institutes or the constituent or associated colleges affiliated; or
- (14) to demand and receive such fees and other charges as may be fixed by the Ordinances;
- (15) to supervise and control the residence and to regulate the discipline of students of the University, the Institute and the constituent of affiliated or associated colleges and to make arrangements for promoting their health;
- (16) to create administrative, ministerial and other necessary posts and to make appointments thereto; and
- (17) to do all such acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University.

COMMENT

Powers and duties of the University.—It is the duty of the University to obey the rules and regulations by which it professor to be bound and not adversely affect the rights of others. *Virendra Kapur v. University of Jodhpur*, A.I.R. 1964 Raj. 161 (F.B.); *Mirza Shokat Beg v. University of Rajasthan*, A.I.R. 1979 Raj. 37.

¹[7-A. Additional powers and duties of certain University.—Upon being authorised by the State Government by notification under the Uttar Pradesh Homocopathic Medicine Act, 1951, ²[Doctor Bhimrao Ambedkar University, Agra or ³[Chhatrapati] Shahu Ji Maharaj University, Kanpur], as the case may be, shall—

- (a) hold examinations for and grant diplomas in Homoeopathy;
- (b) take over the functions of holding of examinations for courses prescribed by the Board of Homoeopathic Medicine constituted under the said Act and granting diplomas and shall exercise and perform all the powers and functions of such Board under the said Act with respect to holding of such examinations and granting of diplomas}.

⁴[7-B. Additional power and duties of certain Universities.—Upon being authorized by the State Government by notification the Uttar Pradesh Urdu, Arabi, Pharsi University shall help, affiliate and facilitate the minority educational institutions providing higher education.]

CHAPTER III

INSPECTION AND INQUIRY

8. Visitation.—(1) The State Government shall have the right to cause an inspection to be made by such person or persons as it may direct, of the University or any constituent college or any Institute maintained by the University, including its buildings, libraries, laboratories, workshops and

1. Ins. by Act No. 14 of 1977 (w.e.f. 8-8-1977).

2. Subs by President Act No. 4 of 1996 (w.e.f. 23-9-1995).

3. Subs. for "Shri" by U.P. Act No. 12 of 1997 (w.e.f. 12-8-1997).

4. Ins. by U.P. Act No. 11 of 2010.

equipment and also of the examinations, teaching and other work conducted or done by the University or such colleges or Institute or to cause an inquiry to be made in the like manner in respect of any matter connected with the administration and finances of the University or such college or such Institute.

(2) Where the State Government decides to cause an inspection or inquiry to be made under sub-section (1), it shall inform the University of the same through the Registrar, and any person nominated by the Executive Council may be present at such inspection or inquiry as representative of the University and he shall have the right to be heard as such :

Provided that no legal practitioner shall appear, plead or act on behalf of the University at such inspection or inquiry.

(3) The person or persons appointed to inspect or inquire under sub-section (1) shall have all the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and enforcing the attendance of witnesses and compelling production of documents and material objects, and shall be deemed to be a Civil Court within the meaning of ¹[Sections 345 and 346 of the Code of Criminal Procedure, 1973], and any proceeding before him or them shall be deemed to be judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

(4) The State Government shall address the Vice-Chancellor with reference to the result of such inspection or inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the State Government with such advice as the State Government may offer upon the action to be taken thereon.

(5) The Vice-Chancellor shall then within such time as the State Government may fix, submit to it a report of the action taken or proposed to be taken by the Executive Council.

(6) If the University authorities do not within a reasonable time, take action to the satisfaction of the State Government, the Government may, after considering any explanation which the University authorities may furnish, issue such directions as it may think fit, and the University authorities shall be bound to comply with such directions.

(7) The State Government shall send to the Chancellor a copy of every report of an inspection or inquiry caused to be made under sub-section (1) and of every communication received from the Vice-Chancellor under sub-section (5) and of every direction issued under sub-section (6) and also of every report or information received in respect of compliance or non-compliance with such direction.

(8) Without prejudice to the provisions of sub-section (6) if the Chancellor on consideration of any document or material referred to in sub-section (7) of this section including any report of an inquiry held before the commencement of this Act, is of opinion that the Executive Council has failed to carry out its functions or has abused its powers, he may, after giving it an opportunity of

1. Subs. by U.P. Act No. 5 of 1977.

submitting a written explanation, order that in supersession of the Executive Council, an *ad hoc* Executive Council, consisting of the Chancellor and such other persons not exceeding ten in number as Chancellor may appoint in that behalf including any member of the superseded Executive Council, shall for such period not exceeding two years as Chancellor may from time to time specify, and subject to the provisions of section (11), exercise and perform all the powers and functions of the Executive Council under this Act.

(9) Nothing in Section 20 shall apply to the composition of the *ad hoc* Executive Council that may be constituted under sub-section (8).

(10) Upon an order being made under sub-section (8), the term of office of members of the Executive Council superseded thereby, including *ex-officio* members shall cease and all such members shall vacate their offices as such.

(11) During the period of operation of an order under sub-section (8), provisions of this Act, shall have effect subject to the following modifications, namely :

(a) in Section 20, after sub-section (5), the following sub-section shall be deemed inserted :

“(6) A meeting of the Executive Council shall be held at least once every two months”;

(b) in Section 21, in sub-section (1), after the words ‘subject to provisions of this Act’, the words ‘and subject also to the control of the Chancellor’ shall be deemed inserted;

(c) in Section 24, in sub-section (2), the words, ‘and shall upon requisition in writing signed by not less than one-fourth of the members of the Court’ shall be deemed omitted.

(12) A fresh Executive Council shall be constituted in accordance with provisions of Section 20 with effect from the expiration of the period of operation of an order under sub-section (8).

(13) Any Statute, Ordinance, Regulation or order made during the period of operation of an order under sub-section (8), in accordance with the provisions of this Act, as deemed modified by virtue of the provisions of sub-section (11) shall, notwithstanding the expiration of such period, continue in force until amended, repealed or rescinded in accordance with the provisions of this Act.

CHAPTER IV

OFFICER OF THE UNIVERSITY

9. Officers of the University.—The following shall be the officers of the University—

- (a) the Chancellor;
- (b) in the case of Sampurnanand Sanskrit Vishvavidyalaya only, Pro-Chancellor;
- (c) the Vice-Chancellor;
- (d) in the case of Universities referred to in sub-section (1) of Section 14, the Pro-Vice-Chancellor;

- (e) the Finance Officer;
- (f) the Registrar;
- ¹[(ff) the Controller of examinations, if any, appointed];
- (g) the Deans of the Faculties;
- (h) the Dean of Students Welfare;
- (i) such other officers as may be declared by the Statutes to be the officers of the University.

COMMENT

Officers of University.—Officers of the University does not mean the employees of University. Unless the context otherwise requires the expression used here should ordinarily be treated as carrying the same meaning throughout the Act. *Subhas Chandra v. State of H.P.*, 1978 Lab. I.C. 1294 (D.B.) : 1978 (1) S.L.R. 681.

10. The Chancellor.—(1) The Governor shall be the Chancellor of the University. He shall, by virtue of his office, be the Head of the University and the President of the Court and shall, when present, preside at meeting of the Court and at any convocation of the University.

(2) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

(3) It shall be the duty of the Vice-Chancellor to furnish such information or records relating to the administration of the affairs of the University as the Chancellor may call for.

(4) The Chancellor shall have such other powers as may be conferred on him by or under this Act or the Statutes.

11. Pro-Chancellor.—(1) Maharaja Vibhuti Narain Singh of Varanasi shall continue to be the Pro-Chancellor for life of the Sampurnanand Sanskrit Vishvavidyalaya.

(2) The Pro-Chancellor shall, in the absence of the Chancellor, preside at meetings of the Court and at any convocation of the Vishvavidyalaya.

(3) The Pro-Chancellor shall have such other powers as may be conferred upon him by or under this Act or the Statutes.

12. The Vice-Chancellor.—(1) The Vice-Chancellor shall be whole time salaried officer of the University and shall be appointed by the Chancellor except as provided by sub-section (5) or sub-section (10) from amongst the persons whose names are submitted to him by the Committee constituted in accordance with the provisions of sub-section (2).

(2) The Committee referred to in sub-section (1) shall consist of the following members, namely—

- (a) one person (not being a person connected with the University, an Institute a constituent college, an associated or affiliated college or a hall or hostel) to be elected by the Executive Council ²[at least three months before the date on which a vacancy in the office of the Vice-Chancellor is due to occur by reason of expiry of his term];

1. Ins. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

2. Ins. by U.P. Act No. 5 of 1977.

- (b) one person who is or has been a Judge of the High Court of Judicature at Allahabad including the Chief Justice thereof nominated by the said Chief Justice; and
- (c) one person to be nominated by the Chancellor who shall also be the convenor of the Committee :

¹[Provided that where the Executive Council fails to elect any person in accordance with Clause (a), then the Chancellor shall nominate in addition to the person nominated by him under Clause (c), one person in lieu of the representative of the Executive Council.]

(3) The Committee shall, as far as may be, at least sixty days before the date on which a vacancy in the office of the Vice-Chancellor is due to occur by reason of expiry of term or resignation under sub-section (7), and also whenever so required and before such date as may be specified by the Chancellor, submit to the Chancellor the names of not less than three and not more than five persons suitable to hold the office of the Vice-Chancellor. The Committee shall, while submitting the names, also forward to the Chancellor a concise statement showing the academic qualifications and other distinctions of each of the persons so recommended, but shall not indicate any order of preference.

(4) Where the Chancellor does not consider any one or more of persons recommended by the Committee to be suitable for appointment as Vice-Chancellor or if one or more of the persons recommended is or are not available for appointment and the choice of the Chancellor is restricted to less than three persons, he may require the Committee to submit a list of fresh names in accordance with sub-section (3).

(5) If the Committee in the case referred to in sub-section (3) or sub-section (4) fails or is unable to suggest any names within the time specified by the Chancellor, ²[or if the Chancellor does not consider any one or more of the fresh names recommended by the Committee to be suitable for appointment as Vice-Chancellor] another Committee consisting of three persons of academic eminence shall be constituted by the Chancellor which shall submit the names in accordance with sub-section (3).

(6) No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members or by reason of some person having taken part in the proceedings who is subsequently found not to have been entitled to do so.

³[(7) (a) Only such person shall be eligible for appointment to the office of Vice-Chancellor who has not attained the age of 65 years;

(b) The Vice-Chancellor shall hold office for a term of three years from the date he enters upon his office or till he attains the age of sixty eight years whichever is earlier;

(c) The Vice-Chancellor who has not attained the age of sixty-five years may be appointed as such for second term :

1. Ins. by U.P. Act No. 5 of 1977.

2. Ins. by U.P. Act No. 5 of 1977 and shall be deemed always to have been inserted.

3. Subs. by U.P. Act No. 26 of 2007 (w.e.f. 25-8-2007).

Provided that the Vice-Chancellor may by writing under his hand addressed to the Chancellor, resign his office, and shall cease to hold his office on the acceptance by the Chancellor of such resignation].

(8) Subject to the provisions of this Act, the emoluments and other conditions of service of the Vice-Chancellor shall be such as may be determined by the State Government by general or special order in that behalf.

(9) The Vice-Chancellor shall not be entitled to the benefit of any pension, insurance or provident fund constituted under Section 33 :

¹[Provided that when any teacher or other employee of any University or any affiliated or associated college is appointed as Vice-Chancellor, he shall be allowed to continue to contribute to the provident fund to which he is a subscriber and the contribution of the University shall be limited to what it had been contributing immediately before his appointment as Vice-Chancellor].

(10) In any of the following circumstances (of the existence of which the Chancellor shall be the sole Judge), the Chancellor may appoint any suitable person to the office of Vice-Chancellor for a term not exceeding six months as he may specify—

- (a) where a vacancy in the office of Vice-Chancellor occurs or is likely to occur by reason of leave or any other cause, not being resignation or expiry of term of which a report shall forthwith be made by the Registrar to the Chancellor;
- (b) where a vacancy in the office of Vice-Chancellor occurs and it cannot be conveniently and expeditiously filled in accordance with the provisions of sub-sections (1) to (5);
- (c) any other emergency :

Provided that the Chancellor may, from time to time, extend the term of appointment of any person to the office of Vice-Chancellor under this sub-section, so however, that the total term of such appointment (including the term fixed in the original order) does not exceed one year.

(11) Until a Vice-Chancellor appointed under sub-section (1) or sub-section (5) or sub-section (10) assumes office, the Pro-Vice-Chancellor, if any, or where there is no Pro-Vice-Chancellor, the senior-most Professor of the University in the case of the University of Gorakhpur and any University mentioned in or specified under Section 38, or the seniormost Principal of an affiliated College in the case of any other University shall discharge the duties of the Vice-Chancellor as well.

²[(12) If in the opinion of the Chancellor, the Vice-Chancellor wilfully omits or refuses to carry out the provisions of this Act or abuses the powers vested in him, or if it otherwise appears to the Chancellor that the continuance of the Vice-Chancellor in office is detrimental to the interest of the University, the Chancellor may, after making such inquiry as he deems proper, by order, remove the Vice-Chancellor.

1. Ins. by U.P. Act No. 21 of 1975 and shall be deemed always to have been inserted.

2. Ins. by U.P. Act No. 20 of 1994 (w.e.f. 15-7-1994).

(13) During the pendency or in contemplation, of any inquiry referred to in sub-section (12) the Chancellor may order that till further orders—

- (a) such Vice-Chancellor shall refrain from performing the functions of the office of Vice-Chancellor, but shall continue to get the emoluments to which he was otherwise entitled under sub-section (8);
- (b) the functions of the office of the Vice-Chancellor shall be performed by the person specified in the order].

SYNOPSIS

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|---|--|
| 1. Notice to all the Members of the Committee is a must. | 4. Chancellor has the power to pass successive orders. |
| 2. Sufficiency of the notice of the meeting of the Council. | 5. Nature of inquiry. |
| 3. Members of Committee to be elected by Executive Council. | 6. Power to appoint not to be arbitrary. |
| | 7. Removal of the Vice-Chancellor. |

1. *Notice to all the Members of the Committee is a must.*—It is necessary that notice must be issued to all the members of the Committee. If for one reason or the other one of them could not attend that does not make the meeting of others illegal. In such circumstances, where there is no rule or regulation or any other provision for fixing the quorum, the presence of the majority of the members would constitute it a valid meeting and matters considered thereat cannot be held to be invalid. *Ishwar Chand v. Satyanarain Sinha and others*, A.I.R. 1972 S.C. 1812.

2. *Sufficiency of the notice of the meeting of the Council.*—Seven day's notice required by the provision under the regulations should mention the business to be transacted at the meeting and should be accompanied by an agenda specifying the business to be transacted in the meeting. Only four days notice was held to be insufficient and the recommendations of the said committee was held to be invalid. *Kashi Nath Mishra v. Allahabad University*, A.I.R. 1967 All. 101.

3. *Members of Committee to be elected by Executive Council.*—The election of the member has to be conducted according to the system of proportional representation by means of a single transferable vote. *Kashi Nath Mishra v. Allahabad University*, A.I.R. 1967 All. 101.

4. *Chancellor has the power to pass successive orders.*—In the case of *Chancellor, Varanaseya Sanskrit Vishwavidyalaya v. Jagdish Narain Pandey*, A.I.R. 1969 Allahabad 376, a Full Bench of the Allahabad High Court had occasion to consider, Section 12 (6) of the U.P. Varanaseya Sanskrit Vishwavidyalaya Act which is similar to sub-section (10) of this section and it was held that the Chancellor had the power to pass successive orders. It was further held that if this power is misused or colourably exercised or if the power is exercised in the absence of existence of requisite conditions, such exercise of the power may be called in question by appropriate legal proceedings and may be struck down by the Court in appropriate cases, but that would not mean that the power does not exist.

5. *Nature of Inquiry.*—The inquiry must be held in a manner consistent with the basic concept of justice and fair play. *State of Orissa v. Dr. (Miss) Binapani*, A.I.R. 1967 S.C. 1269 (1271).

6. *Power to appoint not to be arbitrary.*—The power to appoint a Vice-Chancellor has its source in the University. It must not be exercised arbitrarily. It can be exercised only for good cause, i.e. in the interested of the University and only when it is found after due inquiry held in the manner consistent with the rules of natural justice, that the holder of the office is unfit to continue as Vice-Chancellor. *Bool Chand v. Kurukshetra University*, A.I.R. 1968 S.C. 292.

7. *Removal of the Vice-Chancellor.*—Under the First Statutes framed by the University, in case, the Chancellor is of the opinion that the Vice-Chancellor has, intentionally and wilfully, violated the provisions as this Act or omitted to carry out them or misused the powers vested in him and if it appears to the Chancellor that the said Vice-Chancellor's continuance in his office is not in the interests of the University, the Chancellor, after due inquiry, by an order, may remove him from his office. *Comments based on the provisions of the Act.*

13. **Powers and duties of the Vice-Chancellor.**—(1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall—

- (a) exercise general supervision and control over the affairs of the University including the constituent colleges and the Institutes maintained by the University and its affiliated and associated colleges;
- (b) give effect to the decisions of the authorities of the University;
- (c) in the absence of the Chancellor, preside at meetings of the Court and at any convocation of the University;
- (d) be responsible for the maintenance of discipline in the University;
- ¹(e) be responsible for holding and conducting the University examinations properly and at due time and for ensuring that the results of such examinations are published expeditiously and that the academic session of the University starts and ends on proper dates].

(2) He shall be an *ex officio* member and Chairman of the Executive Council, Academic Council and the Finance Committee.

(3) He shall have the right to speak in and otherwise to take part in the meeting of any other authority or body of the University but shall not by virtue of his sub-section be entitled to vote.

(4) It shall be the duty of the Vice-Chancellor to ensure the faithful observance of the provisions of this Act, the Statutes and the Ordinances and he shall, without prejudice to the powers of the Chancellor ²[under Sections 10 and 68] possess all such powers as may be necessary in that behalf.

(5) The Vice-Chancellor shall have the power to convene or cause to be convened meetings of the Executive Council, the Court, the Academic Council and the Finance Committee :

Provided that he may delegate this power to any other officer of the University.

1. Ins. by U.P. Act No. 5 of 1977.

2. Subs. by U.P. Act No. 29 of 1974.

(6) Where any matter ¹[other than the appointment of teacher of the University] is of urgent nature requiring immediate action and the same cannot be immediately dealt with by any officer or the authority or, other body of the University empowered by or under this Act to deal with it, the Vice-Chancellor may take such action as he may deem fit and shall forthwith report the action taken by him to the Chancellor and also to the officer, authority, or other body who or which in the ordinary course would have dealt with the matter :

Provided that no such action shall be taken by the Vice-Chancellor without the previous approval of the Chancellor, if it would involve a deviation from the provisions of the Statutes or the Ordinances :

Provided further that if the officer, authority or other body is of opinion that such action ought not to have been taken, it may refer the matter to the Chancellor who may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner, as he thinks fit and thereupon, it shall cease to have effect or, as the case may be, take effect in the modified form, so however, that such annulment or modification shall be without prejudice to the validity of anything previously done by or under the order of the Vice-Chancellor :

Provided also that any person in the service of University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section, shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon, the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(7) Nothing in sub-section (6) shall be deemed to empower the Vice-Chancellor to incur any expenditure not duly authorised and provided for in the budget.

(8) Where the exercise of the power by the Vice-Chancellor under sub-section (6) involves the appointment of an officer ²[* * *], such appointment shall terminate on appointment being made in the prescribed manner or on the expiration of a period of six months from the date of the order of the Vice-Chancellor, whichever is earlier.

(9) The Vice-Chancellor shall exercise such other powers as may be laid down by the Statutes and the Ordinances.

SYNOPSIS

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|---|---|
| 1. Nature of the opportunity to be provided by the Vice-Chancellor. | 4. No power to make <i>ad hoc</i> appointment. |
| 2. Offence involving moral turpitude. | 5. Power of the Vice-Chancellor quasi-judicial. |
| 3. Entertaining of oral complaint/Explanation by the Vice-Chancellor. | |

1. Ins. by U.P. Act No. 1 of 1992 (w.e.f. 22-11-1991).

2. The words "or a teacher of the University" omitted by U.P. Act No. 1 of 1992 (w.e.f. 22-11-1991).

1. *Nature of the opportunity to be provided by the Vice-Chancellor.*—Unless a person is made aware of the fact that he is being accused of some thing, question of refuting the allegations or putting in his defence does not arise. If action has been taken against a person without making him aware of the accusation levelled against him, it would necessarily follow that an opportunity to put in his defence has been denied to him. *Shah Ahmad v. Roorkee University*, 1978 All. L.J. 567.

2. *Offence involving moral turpitude.*—The respondent-University had reinstate petitioner Shri Jaswant Singh Sajwan who had been convicted under Section 60 of the Excise Act, and was imposed a fine of Rs. 150 for possessing two pouches of illicit liquor. From the factual background, it may be presumed that the University was not treating the possession of illicit liquor as an offence involving moral turpitude. The action of the respondents in terminating the services of the petitioner who have been held guilty of a similar offence under Section 60 of the Excise Act was arbitrary and discriminatory. *Parashu Ram Semwal v. The Registrar, Hemwati Nandan Bahuguna, Garhwal University Srinagar, Garhwal*, (2001) 1 U.P.L.B.E.C. 93 (All.).

3. *Entertaining of oral complaint/Explanation by the Vice-Chancellor.*—Where a person does not make a complaint or give an explanation in writing, the Vice-Chancellor or the Proctor cannot over look the complaint or explanation made orally. Non-consideration of the oral explanation of the person proceeded against even though he does not put in appearance, would be a flaw which would vitiate the proceedings of the inquiry committee as it would amount to violation of the principle of natural justice. Special Appeal No. 18 of 1973, *Vice Chancellor of University of Allahabad v. Shri Jagdish Chandra Dixit and others*, decided by Division Bench on 27-9-1973.

4. *No power to make ad hoc appointment.*—As is clear from the provision of this section, the Vice-Chancellor should not be given any power to make *ad hoc* appointment of a teacher of the University. *Dr. Prabhu Narain Saxena v. Vice-Chancellor, Dr. Bheem Rao Ambedkar University, Agra*, (2001) 1 U.P.L.B.E.C. 86 (All.).

5. *Power of the Vice-Chancellor quasi-judicial.*—According to Clause (d) of sub-section (1), the Vice-Chancellor is expected to exercise quasi-judicial powers in punishing students for breach of discipline. *Gajadhar Prasad v. Allahabad University*, A.I.R. 1964 All. 477.

14. *The Pro-Vice-Chancellor.*—(1) This section applies only to the Universities of Lucknow, ¹[* * *] and Gorakhpur and to any other University specified in that behalf by the State Government by notification in the Gazette.

(2) The Vice-Chancellor, if he considers necessary, may appoint a Pro-Vice-Chancellor from amongst the Professors of the University.

(3) The Pro-Vice-Chancellor appointed under sub-section (2) shall discharge his duties in addition to his duties as a Professor.

(4) The Pro-Vice-Chancellor shall hold office at the pleasure of the Vice-Chancellor.

(5) The Pro-Vice-Chancellor shall get an honorarium of Rupees three hundred per month.

1. The word "Allahabad" omitted by Act No. 26 of 2005 (w.e.f. 14-7-2005).

(6) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters, as may be specified by the Vice-Chancellor in this behalf from time to time and shall preside over the meetings of the University in the absence of the Vice-Chancellor and shall exercise such other powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

NOTIFICATION

English translation of Shiksha Anubhag-10, Noti. 3452/XV-X-94-6 (6)-94, dated November 14, 1994, published in the U.P. Gazette, Extra., Part 4 Section (Kha), dated 14th November, 1994

In exercise of the powers under sub-section (1) of Section 14 of the Uttar Pradesh State Universities Act, 1973 (President's Act No. 10 of 1973) as amended and re-enacted by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974 (U.P. Act No. 29 of 1974), the Governor is pleased to specify with effect from the date of publication of this notification in the Gazette, the following other Universities to which Section 14 of the said Act shall apply :

- (1) The University of Agra.
- (2) The University of Kanpur.
- (3) Chaudhary Charan Singh University, Meerut.
- (4) Sampurnanand Sanskrit Vishwavidyalaya, Varanasi.
- (5) Kashi Vidyapith, Varanasi.
- (6) The University of Kumaun.
- (7) Hemvati Nandan Bahuguna Garhwal University.
- (8) Doctor Ram Manohar Lohia University, Faizabad.
- (9) The University of Bundelkhand.
- (10) The University of Rohilkhand.

15. **The Finance Officer.**—(1) There shall be a Finance Officer for the University, who shall be appointed by the State Government by a notification published in the Official Gazette and his remuneration and allowances shall be paid by the University.

(2) The Finance Officer shall be responsible for presenting the budget (annual estimates) and the statement of accounts to the Executive Council and also for drawing and disbursing funds on behalf of the University.

(3) He shall have the right to speak in and otherwise to take part in proceedings of the Executive Council but shall not be entitled to vote.

(4) The Finance Officer shall have the duty—

- (a) to ensure that no expenditure, not authorised in the budget incurred by the University (otherwise than by way of investment)
- (b) to disallow any proposed expenditure which may contravene provisions of this Act or the terms of any Statutes or Ordinances

(c) to ensure that no other financial irregularity is committed and to take steps to set right any irregularities pointed out during audit;

(d) to ensure that the property and investments of the University are duly preserved and managed.

(5) The Finance Officer shall have access to and may require the production of such records and documents of the University and the furnishing of such information pertaining to its affairs as in his opinion may be necessary for the discharge of his duties.

(6) All contracts shall be entered into and signed by the Finance Officer on behalf of the University.

(7) Other powers and functions of the Finance Officer shall be such as may be prescribed.

16. The Registrar.—(1) The Registrar shall be a whole-time Officer of the University.

(2) The Registrar shall be appointed in accordance with, and his conditions of service shall be governed by rules made under Section 17.

(3) The Registrar shall have the power to authenticate records on behalf of the University.

(4) The Registrar shall be responsible for the due custody of the records and the common seal of the University. He shall be *ex officio* Secretary of the Executive Council, the Court, ¹{the Academic Council and the Admission Committee} and of every Selection Committee for appointment of teachers of the University, and shall be bound to place before these authorities all such information as may be necessary for transaction of their business. He shall also perform such other duties as may be prescribed by the Statutes and Ordinances which are required, from time to time, by the Executive Council or the Vice-Chancellor but he shall not, by virtue of this sub-section, be entitled to vote.

²{(5) [* * *]}

(6) The Registrar shall not be offered nor shall he accept any remuneration for any work in the University save such as may be provided for by rules made under Section 17.

³[16-A. The Controller of Examination.—(1) This section applies only to the Universities of Lucknow, Allahabad, Gorakhpur and Kanpur and to other University specified in that behalf by the State Government by notification in the Official Gazette.

(2) The Controller of Examination shall be a whole time Officer of the University.

(3) The Controller of Examination shall be appointed by the Government by a notification published in the Official Gazette and remuneration and allowances shall be paid by the University.

1. Subs. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

2. Omitted by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

3. Ins. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

(4) The Controller of Examinations shall be responsible for the due custody of the records pertaining to his work. He shall be *ex-officio* Secretary of the Examinations Committee of the University and shall be bound to place before such Committee all such information as may be necessary for transaction of its business. He shall also perform such other duties as may be prescribed by the Statutes and Ordinances as required, from time to time, by the Executive Council or the Vice-Chancellor but he shall not, by virtue of this sub-section, be entitled to vote. He may require, from any office or institute of the University, the production of such return or the furnishing of such information as may be necessary for the discharge of his duties.

(5) The Controller of Examinations shall have Administrative control over the employees working under him and have, in this regard all the powers of the Registrar.

(6) Subject to the Superintendence of the Examinations Committee the Controller of Examinations shall conduct the Examinations and make all other arrangements therefore and be responsible for the due execution of all processes connected therewith.

(7) The Controller of Examinations shall not be offered nor shall he accept any remuneration for any work in the University, except in accordance with the order of the State Government.

(8) While the Controller of Examinations is for any reason is unable to act or the office of Controller of Examinations is vacant, all the duties of the office shall be performed by such person as may be appointed by the Vice-Chancellor, untill the Controller of Examinations resumes his duties or, as the case may be, the vacancy is filled.

¹[16-B. Duties of Registrar with respect to examinations in certain Universities.—In the Universities to which the provisions of Section 16-A do not apply, the duties of the Controller of Examinations shall be discharged by the Registrar and with respect to such Universities the Registrar shall be deemed to be the Controller of Examinations for the purposes of this Act].

17. Centralisation of services of Registrars, Deputy Registrars and Assistant Registrars.—(1) The State Government shall, by rules made by notification in the Official Gazette, provide for the creation of a separate service of Registrars, Deputy Registrars and Assistant Registrars, common to all the Universities and regulate the recruitment to and conditions of service of persons appointed to any such service :

²[Provided that any rules made under this sub-section may be made retrospectively to a date not earlier than October 31, 1975].

(2) When any such service is created, the persons then serving on ³[the administrative posts of Registrars, Deputy Registrars and Assistant Registrars], if confirmed before May 14, 1973, shall be absorbed in the service

1. Ins. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

2. Ins. by U.P. Act No. 5 of 1977.

3. Subs. by U.P. Act No. 29 of 1974.

finally, and other persons serving on the said posts may, if found suitable, be absorbed in such service either provisionally or finally, and if, in the later case, any person is not absorbed finally, then his services shall be deemed to have been terminated on payment of one month's salary as compensation.

(3) Where any person referred in sub-section (2) is absorbed in the service, the conditions of service applicable to him shall not be less advantageous than those applicable to him before his absorption, except that he shall be liable to transfer from one University to another :

¹[Provided that such absorption in the service shall not operate as a bar against holding or continuing to hold any disciplinary proceeding against a member of the service in respect of any act committed before the date of such absorption].

(4) All rules made under this section shall, as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session for a total period of not less than thirty days extending in its one session or more than one successive sessions and shall unless some later date is appointed, take effect from the date of their publication in the Gazette subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

18. Other Officers.—The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Pro-Vice-Chancellor ²[The Finance Officer, the Registrar and the Controller of Examinations, if any appointed], shall be such as may be laid down by the Statutes and the Ordinances.

³[CHAPTER IV-A

CO-ORDINATION COUNCIL AND CENTRAL BOARD OF STUDIES

18-A. Co-ordination Council.—(1) There shall be a Co-ordination Council which shall consist of the Chancellor as its Chairman, and the following other members, namely :

- (i) the Vice-Chancellors of the Universities;
- (ii) the Chairman of the Uttar Pradesh State Council of Higher Education;
- (iii) the Secretary to the State Government in the judicial Department;
- (iv) the Secretary to the State Government in the Finance Department;
- (v) the Secretary to the Governor;
- (vi) the Secretary to the State Government in the Higher Education Department who shall be *ex-officio* at the Co-ordination Council.

(2) Subject to the recommendations of, or guidelines issued by, the University Grants Commission, the powers and functions of the Co-ordination Council shall be as follows, namely :

1. Ins. by U.P. Act No. 5 of 1977 and shall be deemed to have always been inserted.
 2. Subs. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).
 3. Chapter IV-A Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

- (a) to recommend common courses of study for a Bachelor's Degree;
- (b) to recommend in respect of the constitution of a Central Board of Studies for the foundation course or for each subject or group of subjects;
- (c) to recommend ways and means of co-operation in academic programmes amongst the Universities;
- (d) to consider and recommend matters of common interest to the Universities.

(3) The Co-ordination Council shall meet at Lucknow or at such other place and at such intervals as the Chancellor may determine.

18-B. Central Board of Studies.—(1) There shall be Central Board of Studies for the foundation course or such other subjects or group of subjects as the Chancellor may, on the recommendation of the Co-ordination Council, by order, direct.

(2) The Central Board of Studies for the foundation course shall consist of—

- (i) one teacher from each University not below the rank of a Reader or a Principal of an affiliated or associated college, nominated by the Vice-Chancellor; and
- (ii) five educationists who are on the Eminent Professors' lists of the University Grants Commission nominated by the Chancellor on the recommendation of the Co-ordination Council.

(3) The Central Board of Studies for other subjects or group of subjects shall consist of—

- (i) the Convenor, Board of Studies of each University in respect of the subject or group of subjects for which the Central Board of Studies is to be constituted :

Provided that if a University does not have a Board of Studies in the subject or group of subjects, the Vice-Chancellor may nominate any teacher not below the rank of a Reader in the University or a Principal of an affiliated or associated college;

- (ii) one Head of the Department in an affiliated or associated college nominated by the Chancellor, teaching the subject up to the post-graduate level;
- (iii) one Head of the Department in an affiliated or associated college nominated by the Chancellor, teaching the subject up to the degree level;
- (iv) three experts on the subject who are on the Eminent Professors' list of the University Grants Commission, nominated by the Chancellor on the recommendation of the Co-ordination Council; and
- (v) two other experts on the subject from outside the State nominated by the Chancellor.

(4) The Chancellor shall nominate the Chairman of the Central Board of Studies,—

- (i) for foundation course from amongst the members referred to in Clause (i) of sub-section (2); and

- (ii) for other subject or group of subjects, from amongst the members referred to in Clauses (i) and (ii) of sub-section (3).

(5) The constitution of the Central Board of Studies and the nomination of the Chairman and the members thereon, other than *ex officio* members, shall be notified by the State Government.

(6) The term of the Central Board of Studies shall be three years from the date of notification referred to in sub-section (5) and the term of the Chairman and the members shall be co-terminous with it :

Provided that the term of office of a member nominated to fill a casual vacancy shall be for the remainder of his predecessor's term.

(7) Subject to the recommendations of, or guidelines issued by, the University Grants Commission, the functions of the Central Board of Studies shall be as follows, namely :

- (a) subject to the recommendations of the Co-ordination Council and the approval of the Chancellor, to prescribe the courses of study and examinations, and the academic calendar, and to recommend text-books and other books for under-graduate level;
- (b) to consider and report on any matter referred to it by the Co-ordination Council, or the Chancellor; and
- (c) to perform such other functions consistent with this Act within such time as the Chancellor may, by an order in writing, require it to perform.

(8) In carrying out its functions, the Central Board of Studies may consult such experts also who are not its members.

(9) The recommendations of the Central Board of Studies approved by the Chancellor shall come into force in respect of all Universities in the State with effect from the date as may be specified by the Chancellor.

(10) The Chancellor may at any time suspend, modify or amend any decision of the Central Board of Studies on the ground that it does not fulfil the objective set out in this section and may direct such Board to consider the matter afresh.

18-C. Secretarial assistance.—The Uttar Pradesh State Council of Higher Education constituted under the Uttar Pradesh State Council of Higher Education Act, 1995, shall provide secretarial assistance to the Co-ordination Council and the Central Board of Studies.]

CHAPTER V

AUTHORITIES OF THE UNIVERSITY

19. Authorities of the University.—The following shall be the authorities of the University—

- (a) the Executive Council;
- (b) the Court;
- (c) the Academic Council;
- (d) the Finance Committee;

- (e) the Boards of Faculties;
- (f) the Selection Committees for appointment of teachers University;
- (g) the Admissions Committee;
- (h) the Examinations Committee; and
- (i) such other authorities as may be declared by the Statute: authorities of the University.

20. Constitution of the Executive Council.—(1) The Executive Council consist of—

- (a) the Vice-Chancellor, who shall be the Chairman thereof;
- (b) the Pro-Vice-Chancellor, if any;
- (c) the Deans of two Faculties, by rotation in the manner prescribed;
- ¹{(cc) two members from amongst the Professors or Readers belonging the Scheduled Castes or Scheduled Tribes and two members amongst the Professors or Readers belonging to other backward classes of citizen;}
- ²{(d) in the case of Universities of Kumaon and Bundelkhand and Doctor Bhimrao Ambedkar University, Agra, the Chhatra Shahu Ji Maharaj University, Kanpur, the Hemvati Nandan Bahuguna Garhwal University, the Chaudhary Charan Singh University, Meerut, the Doctor Ram Manohar Lohia A University, Faizabad and Mahatma Jyotiba Phule Rohilkhand University, Bareilly,—
 - (i) one Professor other than the Pro-Vice-Chancellor or a person referred to in Clause (c) above, one Reader and one Lecturer the University to be selected in the manner prescribed;
 - (ii) three Principals and two other teachers of affiliated colleges, to be selected in the manner prescribed;
 and in the case of any other University notified under sub-section (1) of Section 37, four Principals and four teachers of affiliated college to be selected in the manner prescribed;
- (dd) in the case of Deen Dayal Upadhyay Gorakhpur University Gorakhpur,—
 - (i) one Professor other than the Pro-Vice-Chancellor or a person referred to in Clause (c) above, one Reader and one Lecturer the University to be selected in the manner prescribed;
 - (ii) one representative of Maharana Pratap Siksha Parishad Gorakhpur to be elected by the said Parishad from amongst its members;
 - (iii) three Principals and two other teachers of affiliated colleges to be selected in the manner prescribed;}

1. Ins. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

2. Subs. by U.P. Act No. 20 of 1999.

- (e) in the case of University mentioned in or notified under sub-section (1) of Section 38—
- (i) two Professors [other than the Pro-Vice-Chancellor or a Dean referred to in Clause (c) above], two Readers and two Lecturers of the University, to be selected in the manner prescribed;
 - (ii) one Principal of an associated college to be selected in the manner prescribed;
- (f) four persons to be elected by members of the Court from among such of them as are not enrolled as students of or in the service of the University or an Institute or of a constituent college or an affiliated or associated college or hall or hostel;
- (g) four persons of academic eminence to be nominated by the Chancellor :

¹[Provided that one of the persons so nominated shall be a person who is or has been a Judge of the Supreme Court or High Court].

²[(h) one person, from amongst the reputed industrialists who have made valuable contribution in the field of Higher Education to be nominated by the State Government].

³[(2) The term of office of members mentioned in—

- (i) Clauses (c), ⁴[(cc)], (d) and (e) of sub-section (1) shall be one year;
- (ii) Clause (f) of sub-section (1) shall be three years; and
- (iii) ⁵[Clause (g) or Clause (h)] of sub-section (1) shall be two years].

(3) No person shall be a member of the Executive Council under Clause (f) or Clause (g) ⁶[or Clause (h)] of sub-section (1) for more than two consecutive terms.

(4) Notwithstanding anything in sub-section (1), no person shall be elected or nominated as a member of the Executive Council unless he is a graduate.

(5) A person shall be disqualified for being chosen as, and for being, a member of the Executive Council if he or his relative accepts any remuneration for any work in or for the University or any contract for the supply of goods to or for the execution of any work for the University :

Provided that nothing in this sub-section apply to the acceptance of any remuneration by a teacher as such or for any duties performed in connection with an examination conducted by the University or for any duties as Superintendent or Warden of a training unit or any hall or hostel or proctor or tutor for any duties of a similar nature in relation to the University.

1. Ins. by U.P. Act No. 9 of 1988 (w.e.f. 15-1-1988).
2. Ins. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).
3. Subs. by U.P. Act No. 10 of 1982 (w.e.f. 8-7-1981).
4. Ins. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).
5. Subs. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).
6. Ins. by U.P. Act No. 14 of 1995 (w.e.f. 25-2-1995).

Explanation.—In this section “relative” means the relations defined in Section 6 of the Companies Act, 1956 and includes the wife’s (or husband’s) brother, wife’s (or husband’s) father, wife’s (or husband’s) sister, brother’s son and brother’s daughter.

COMMENT

Meaning of “relative”.—The word “relative” refers to only those persons who are related to a person by blood or marriage. *Raj Kishore Sharma v. Kisan Shiksha Samiti*, 1978 A.L.J. 1007.

21. Powers and duties of Executive Council.—(1) The Executive Council shall be the principal executive body of the University, and subject to the provisions of this Act, have the following powers, namely—

- (i) to hold and control the property and funds of the University;
- (ii) to acquire or transfer any movable or immovable property on behalf of the University;
- (iii) to make, amend or repeal Statutes and Ordinances;
- (iv) to administer any funds placed at the disposal of the University for specific purposes;
- (v) to prepare the budget of the University;
- (vi) to award scholarships, fellowships, bursaries, medals and other rewards in accordance with the Statutes and Ordinances;
- (vii) to appoint officers, teachers and other employees of the University and to define their duties and the conditions of their service, and to provide for the filling of temporary casual vacancies in their posts;
- (viii) ¹[* * *] to fix the fees, emoluments and travelling and other allowances of the examiners;
- (ix) ²[Subject to the provisions of Section 37] to admit any college to the privileges of affiliation or recognition or enlarge the privileges of any college already affiliated, recognised or withdraw or curtail any such privilege;
- (x) to arrange for and direct the inspection of Institute, affiliated, associated or constituent colleges, halls, hostels and other places of residence of students;
- (xi) to direct the form and use of the common seal of the University;
- (xii) to regulate and enforce discipline among members of the teaching administrative and other staff of the University in accordance with the Statutes and the Ordinances;
- (xiii) to manage and regulate the finance, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose, to appoint such agents as it may think fit;

1. Omitted by U.P. Act No. 5 of 1977.

2. Ins. by U.P. Act No. 5 of 1977.

- (xiv) to invest any money belonging to the University (including any income from trust and endowed property) in such stocks, funds, shares or securities as it shall from time to time think fit or in the purchase of immovable property in India, with the like power of varying such investment from time to time;
- (xv) to provide the buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;
- (xvi) to enter into, vary, carry out, and cancel contracts on behalf of the University;
- (xvii) to regulate and determine all other matters concerning the University as well as Institutes, constituent, affiliated and associated colleges in accordance with this Act, the Statutes and the Ordinances.

(2) No immovable property of the University shall, except with the prior sanction of the State Government, be transferred (except by way of letting from month to month in the ordinary course of management) by the Executive Council by way of mortgage, sale, exchange, gift or otherwise nor shall any money be borrowed, or advance taken on the security thereof except as a condition of receipt of any grant-in-aid of the University from the State Government, or, with the previous sanction of the State Government, from any other person.

(3) No expenditure in respect of which approval of the State Government is required by this Act or the Statutes or Ordinances shall be incurred except with such approval previously obtained, and no post shall be created either in the University or in any Institute or constituent college maintained by the University except with the prior approval of the State Government, ¹[or except in accordance with any general or special order of the State Government].

²[(3-A) The Executive Council may, with the prior approval of the University Grants Commission and the State Government create supernumerary post of a teacher of the University with a view to enabling a teacher who is for the time being holding a responsible position of national importance in India or abroad in educational administration or other similar assignments, to retain his lien and seniority as such teacher and also to continue to earn increments in his pay scale during the period of his assignment and to contribute towards provident fund and earn retirement benefits, if any, in accordance with Statutes :

Provided that no salary shall be payable to such teacher by the University for the period of such assignment].

(4) The pay and other allowances to various categories of the employees of the University or of any Institute or constituent college or affiliated or associated college shall be such as may be approved by the State Government.

(5) The Executive Council shall not exceed the limits of recurring and non-recurring expenditure to be incurred in each financial year fixed by the Finance Committee.

1. Ins. by U.P. Act No. 21 of 1975.

2. Ins. by U.P. Act No. 5 of 1977.

(6) The Executive Council shall not take any action in regard to the number, qualifications and emoluments of teachers, and the fees payable to examiners, except after considering the advice of the Academic Council and the Boards of Faculties concerned.

(7) The Executive Council shall give due consideration to every resolution of the Court, and take such action thereon as it shall deem fit and report to the Court, the action taken or, as the case may be, the reasons for non-acceptance of the resolution.

(8) The Executive Council may, subject to any conditions laid down in the Statutes, delegate such of its powers as it deems fit to an officer or any other authority of the University, or to a Committee appointed by it.

SYNOPSIS

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| 1. Notice of meetings of Executive Council is a must. | 10. Office of member of Executive Council—A public office. |
| 2. Passing of resolution—Procedure must be followed. | 11. Appointment—Member of Executive Council cannot challenge its resolution. |
| 3. Executive Council—Principal Executive body of the University. | 12. Appointment order cannot be reviewed, modified or rescinded. |
| 4. Item to be considered need not be always on the agenda. | 13. If V.C. gives his evidence in inquiry, he cannot attend the meeting of Executive Council. |
| 5. Non-compliance of notice, when waived off. | 14. Making an appointment—Framing of ordinances not obligatory. |
| 6. Principle of waiver—When can be invoked. | 15. Power to appoint includes the power to dispense with service even if an ordinance as required by the Act not made. |
| 7. Effect of—When proper notice is not given. | 16. Appointment made by Vice-Chancellor invalid. |
| 8. Void resolution cannot be valid by ratifications. | |
| 9. Mere noting of a resolution not a ratification. | |

1. *Notice of meetings of Executive Council is a must.*—A Division Bench of Andhra Pradesh High Court laid down the propositions relating to the law of meetings—

- (a) The concept of "meeting" takes within its ambit "the coming together of persons";
- (b) The purpose of a notice is to enable the persons entitled to participate in a meeting to attend the meeting and to participate in the deliberations to be taken thereat;
- (c) If a meeting is convened without notice to the persons, entitled to the same, the meeting will be invalid and the consequential proceedings taken thereat also will be afflicted with the same kind of infirmity. *Grandhi Raghurama Gupta v. Revenue Divisional Officer*, A.I.R. 1973 A.P. 174.

2. *Passing of resolution—Procedure must be followed.*—A University is a legal entity. It has neither a living mind nor voice like a human being. It can express its will only through a formal resolution, and therefore, it can only act in its corporate capacity by resolutions properly considered, carried and duly recorded in the manner laid down by its

constitution. If it is expected under the rules of the University that such resolutions are required to be moved and passed, the meeting of the Executive Council is called and every member of the body entitled to take part in the meeting, must be given a notice so as to enable him/her to express his/her views. In such circumstances, an omission to give proper notice even to a single member would invalidate the meeting and as a result, the resolutions which are to be passed, will also get invalidated. Here, it is worthwhile to note that the substance is more important than the form and if there is substantial compliance with the spirit and substance of the law, an unessential defect in form, will not defeat what is otherwise a proper and valid resolution. *Vice-Chancellor v. S. K. Ghosh*, A.I.R. 1954 S.C. 217.

3. *Executive Council—Principal Executive body of the University.*—The Executive Council is the principal Executive body of the University. It is an "authority" within the meaning of Section 19 of the Act. The University is a legal entity and a corporation as provided under Section 3 of the Act. Since the University is not a natural person, the functions of the Executive Council are very vital for the administration of the University. Wide powers are conferred on the Executive Council under this section for the running of the University. Residuary power has been conferred by Clause (xvii) empowering the Executive Council to regulate and determine all other matters concerning the University as well as institutes, constituent, affiliated and associated colleges in accordance with the Act, the statutes and the ordinances. The normal way in which the decisions of the Executive Council are made, is by means of a resolution passed at a properly constituted meeting of the Executive Council. The manner in which the resolutions of the Executive Council should be passed, was considered by the Hon'ble Supreme Court of India in the case of *Vice-Chancellor v. S.N. Ghosh*, A.I.R. 1954 S.C. 217.

4. *Item to be considered need not be always on the agenda.*—It is not always necessary that before a matter is considered by the Executive Council, the said matter should be one of the items of the Agenda of the said meeting. *The King v. Pultford*, (1828) 108 E.R. 1073 (B); *La Compagnie De Mayville v. Whitlay*, 1896 (1) Ch. 788 (C) and *Parker and Cooper Ltd. v. Reading*, 1926 (1) Ch. 475 (D).

5. *Non-compliance of notice, when waived off.*—In a case where notice is not issued to all the members as required by the Rules, but the said member comes and attends the meeting, the said irregularity will be deemed to have been waived by the said member and any decision taken in the meeting of the Executive Council cannot be challenged on the ground of non-compliance of the Rules. *Vice-Chancellor v. S.K. Ghosh*, A.I.R. 1954 S.C. 217.

6. *Principle of waiver—When can be invoked.*—The principle of waiver can only be invoked when all the members were present in the meeting. The doctrine of internal management cannot be pressed in aid to protect *ultra vires* acts. *Kashi Nath Mishra v. Allahabad University*, A.I.R. 1967 All. 101 (105).

7. *Effect of—When proper notice is not given.*—There is no difference in a case where no notice is served on members and a case where notice is served but the members are prevented from attending the meeting either by law or by use of physical force. In both the contingencies, the members do not get reasonable opportunity to attend the meeting; and therefore any business transacted at such a meeting cannot be held valid. *M. G. Gupta v. Agra University*, 1975 (1) Labour and Industrial Cases 3.

There does not seem to be any difference in point of principles between a case of there being a meeting convened without a notice to a person entitled to attend the meeting

and case where such a person was found being prevented by the interested party from attending the meeting. *M. G. Gupta v. Agra University*, 1975 (1) Labour and Industrial Cases 3.

8. *Void resolution cannot be valid by ratification.*—Order passed in violation of principles of natural justice is void. Any subsequent affirmance or reiteration of that decision by the same authority or by the appellate or revisional authority does not validate that decision. Repeated re-affirmance of a void or resolution is not sufficient to make the original action valid or legal. *M.G. Gupta v. Agra University*, 1975 (1) Labour and Industrial Cases 3.

9. *Mere noting of a resolution not a ratification.*—Mere noting of resolution does not amount to ratification. *G. D. Chawla v. University of Jodhpur*, 1976 (1) Labour and Industrial Cases 713.

10. *Office of member of Executive Council—A public office.*—Membership of Executive Council is not merely an office, but it is a public office. A graduate of the University, who is a registered one, has a right to seek for a writ of quo warrant, if such a person has been elected in clear violation of the statutes and ordinances. *Satish Chandra Sharma v. University of Rajasthan, Jaipur*, 1970 R.L.W. 403.

11. *Appointment—Member of Executive Council cannot challenge its resolution.*—A member of the Executive Council cannot challenge an appointment of the Readers and Professors made by the Executive Council itself as he is not a rival candidate and his interest is not affected. *K.P. Yayaraman Reddy v. Bangalore University*, 1973 (2) S.L.R. 239.

12. *Appointment order cannot be reviewed, modified or rescinded.*—If an appointment order has been issued and the employee has assumed office, then the order cannot be reviewed, modified or rescinded. *R.V. Swamy v. Vice-Chancellor*, 1973 (1) S.L.R. 889.

13. *If V.C. gives his evidence in inquiry, he cannot attend the meeting of Executive Council.*—Every judicial or quasi-judicial authority required to act judicially must act impartially free from bias. A biased judge is disqualified to determine disputes before him. The same principle would apply to a statutory authority required to act judicially. Bias vitiates judicial as well as quasi-judicial decisions.

The doctrine of bias was applicable to the Executive Council and the members of the Executive Council were required to be free from bias while considering and deciding the charges against the petitioner. Participation of biased members in the proceedings of the Executive Council was bound to vitiate its decision.

The Vice-Chancellor and one of the members of the Executive Council who were biased against the petitioner. Their participation in the meeting of the Executive Council rendered resolution terminating the petitioner's services void. *M.G. Gupta v. Agra University*, 1975 (1) Labour and Industrial Cases 3.

14. *Making an appointment—Framing of ordinances not obligatory.*—It is not obligatory on the Executive Council to frame the ordinance relating to qualification of teachers before it can exercise its powers to appoint a teacher. *Harish Chandra Khare v. Chancellor, Allahabad University*, Writ 3911 of 1969 decided on 29-4-1970 by the Allahabad High Court.

15. *Power to appoint includes the power to dispense with service even if an ordinance as required by the Act not made.*—The Executive Council has the power to take action against the officers, teachers and other employees of the University even though no ordinances have been framed laying down the terms and conditions under which the said action can be taken against the persons concerned. *Aligarh Muslim University v. Nadir Raza Naqvi*, 1978 A.L.J. 950 : 1978 Labour and Industrial Cases 991.

16. *Appointment made by Vice-Chancellor invalid.*—According to Clause (vi) of sub-section of this section, the power to appoint an Assistant Registrar vests with the Executive Council. If an appointment is made by the Vice-Chancellor, it is *ultra vires* and invalid. *Vice Chancellor v. Shiv Shankar Singh*, Special Appeal No. 46 of 1975 decided on 10-3-1975 (D.B.).

22. The Court.—The Court shall consist of the following members, namely:

Class I—Ex officio Members

- (i) the Chancellor;
- (ii) the Members of the Executive Council;
- (iii) the Finance Officer.

Class II—Life Members

- (iv) in the case of an existing University, every person who was a life member of the Court or Senate immediately before the commencement of this Act.

Class III—Representatives of Teachers, etc.

- (v) all heads of departments of the University and of constituent colleges maintained by it;
- (vi) the Deans of Faculties of Medicine and Engineering, if they are not members of the Executive Council;
- (vii) two representatives of provosts and wardens of hostels and halls of the University and of its constituent colleges and Institutes to be selected by rotation in the manner prescribed;
- (viii) all Principals of constituent colleges maintained by the State Government;
- (ix) fifteen teachers to be selected in the manner prescribed;
- (x) two representatives of the managements of the affiliated or associated colleges to be selected by rotation in the manner prescribed.

Class IV Registered Graduates

- (xi) fifteen representatives of registered graduates to be elected, by registered graduates of such standing as may be prescribed from amongst such of them as are not in the service of the University or of an Institute or of a constituent college or in the service or connected with the management of affiliated college, associated college, hall or hostel.

Class V—Representation of Students

- (xii) one student from each of the Faculties, who having secured the highest marks in that Faculty at the preceding degree examination of any University is pursuing a course of study for a post-graduate degree or a law or a medical or engineering degree in the University (including an affiliated or associated college);

Class VI—Nominees of Chancellor

- (xiii) 1[* * *]

1. Omitted by U.P. Act No. 29 of 1974.

Class VII—Representatives of the State Legislature

- (xiv) two members of the Legislative Council to be elected by it;
- (xv) five members of the Legislative Assembly to be elected by it.

(2) The term of office of members of each class, except Classes I, II and V, mentioned in sub-section (1) shall be three years and the term of the members of the said Class V shall be one year.

23. Powers and duties of the Court.—The Court shall be an advisory body subject to the provisions of this Act, it shall have the following powers and functions, namely :

- (a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;
- (b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report thereon;
- (c) to advise the Chancellor in respect of any matter which may be referred to it for advice; and
- (d) to perform such other duties and exercise such other functions as may be assigned to it by this Act or the Statutes or by the Chancellor.

24. Meeting of the Court.—(1) The Court shall meet once a year on a date to be fixed by the Vice-Chancellor and such meeting shall be called the annual meeting of the Court.

(2) The Vice-Chancellor may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than one-fourth of the total membership of the Court, convene a special meeting of the Court.

25. Academic Council.—(1) The Academic Council shall be the principal academic body of the University and subject to the provisions of this Act, the Statutes and the Ordinances :

- (a) shall have the control and general regulation of, and be responsible for the maintenance of standard of instruction, education and research carried on or imparted in the University;
 - (b) may advise the Executive Council on all academic matters including matters relating to examinations conducted by the University; and
 - (c) shall have such powers and duties as may be conferred or imposed upon it by the Statutes.
- (2) The Academic Council shall consist of the following members, namely—
- (i) the Vice-Chancellor;
 - (ii) the Deans of all Faculties, if any;
 - (iii) all Heads of Departments of the University and where there is no department in a subject in the University, the senior-most teacher from affiliated colleges, representing that subject on the Faculty concerned;
 - (iv) all Professors of the University who are not Heads of Departments;

- (v) संघटक महाविद्यालयों के प्राचार्य और संस्थान, यदि कोई हो, के निदेशक;
- (vi) प्रत्येक संघटक महाविद्यालय, यदि कोई हो, से बरिष्ठता के क्रम में चक्रानुक्रम द्वारा दो प्रोफेसरों को निर्धारित रीति से अवधारित किया जायेगा।
- (vii) सम्बद्ध या सहयुक्त महाविद्यालयों के तीन प्राचार्यों का चयन निर्धारित रीति से चक्रानुक्रम द्वारा किया जायेगा;
- (viii) प-द्रह अध्यापकों का चयन निर्धारित रीति से किया जायेगा;
- (ix) विद्यार्थियों के कल्याण का संकायाध्यक्ष;
- (x) विश्वविद्यालय का पुस्तकालयाध्यक्ष; और
- (xi) शैक्षिक प्रतिष्ठा के पांच सदस्यों का चुनाव निर्धारित रीति से किया जायेगा।

1[परन्तु यह कि यदि अनुसूचित जाति या अनुसूचित जनजातियों या नागरिकों के अन्य पिछड़े वर्गों का कोई भी सदस्य इस उपधारा के अधीन गठित विद्या परिषद् में नहीं है तो उपकुलपति अनुसूचित जातियों या अनुसूचित जनजातियों के दो सदस्यों और विश्वविद्यालय के अध्यापकों में से नागरिकों के अन्य पिछड़े वर्गों के दो सदस्यों को निर्धारित रीति से चक्रानुक्रम द्वारा मनोनित कर सकेगा।]

(3) धारा 2[65] के प्राधधानों के अध्यक्षीन पदेन सदस्यों को छोड़कर अन्य सदस्यों के पद का कार्यकाल वह होगा जिसे निर्धारित किया जाये।

26. वित्त समिति—वित्त समिति में निम्नलिखित सम्मिलित होंगे—

- (क) उपकुलपति;
- 2[(कक) उच्च शिक्षा विभाग में राज्य सरकार का सचिव;
- (ककक) वित्त विभाग में राज्य सरकार का सचिव];
- (ख) प्रति-उपकुलपति, यदि कोई हो;
- (ग) रजिस्ट्रार;
- 3[(गग) परीक्षा नियंत्रक];
- (घ) एक व्यक्ति जो कार्यपरिषद् या विधान परिषद् का सदस्य अथवा विश्वविद्यालय की या किसी संस्थान की या संघटक महाविद्यालय की सेवा में व्यक्ति या किसी सम्बद्ध या सहयुक्त महाविद्यालय की प्रयत्न समिति का सदस्य या उस महाविद्यालय की सेवा में नहीं है, कार्य परिषद् द्वारा चुना जायेगा; और
- (ङ) वित्त अधिकारी, जो समिति का सचिव भी होगा।

4[(1-क) उपधारा (1) के खण्ड (कक) अथवा (खण्ड ककक) में निर्दिष्ट सदस्य स्वयं वित्त समिति में संलग्न में सम्मिलित होने के अलावा किसी अधिकारी को, जो राज्य सरकार के संयुक्त सचिव के अनिम्न स्तर का नहीं होगा, प्रतिनियुक्त कर सकेगा और इस प्रकार प्रतिनियुक्त किये गये अधिकारी को मतदान करने का भी अधिकार प्राप्त होगा।]

1974 के उ० प्र० अधिनियम संख्यांक 1 द्वारा अन्तःस्थापित परन्तुक (11-7-2003 से प्रभावी)।
 2 1977 के उ० प्र० अधिनियम संख्यांक 5 द्वारा "60" के लिए प्रतिस्थापित।
 3 1995 के राष्ट्रपति के अधिनियम संख्यांक 4 द्वारा अन्तःस्थापित।
 4 1995 के उ० प्र० अधिनियम संख्यांक 14 द्वारा अन्तःस्थापित (25-2-1995 से प्रभावी)।
 5 1995 के राष्ट्रपति के अधिनियम संख्यांक 4 द्वारा अन्तःस्थापित (11-7-1995 से प्रभावी)।

(2) The Finance Committee shall advise the Executive Council on matters relating to the administration of property and funds of the University. It shall, having regard to the income and resources of the University, fix limits for the total recurring and non-recurring expenditure for the ensuing financial year and may, for any special reasons, revise during the financial year the limits of expenditure so fixed and the limits so fixed shall be binding on the Executive Council.

(3) The Finance Committee shall have such other powers and duties as may be conferred or imposed on it by this Act or the Statutes.

¹[(4) Unless a proposal having financial implication has been recommended by the Finance Committee, the Executive Council shall not take a decision thereon, and if the Executive Council disagrees with the recommendations of the Finance Committee, it shall refer the proposal back to the Finance Committee with reasons for the disagreement and if the Executive Council again disagrees with the recommendation of the Finance Committee the matter shall be referred to the Chancellor whose decision thereon shall be final.]

27. The Faculties.—(1) The University shall have such Faculties as may be prescribed.

(2) Each Faculty shall comprise such departments of teaching as may be prescribed and each department shall have such subjects of study as may be assigned to it by the Ordinance.

(3) There shall be a Board of each Faculty, the constitution (including the term of office of its members) and powers and duties of which shall be such as may be prescribed.

(4) There shall be a Dean of each Faculty who shall be chosen from amongst the Professors by rotation in order of seniority and shall hold office for three years.

²[Provided that in the case of a Medical, Engineering, Ayurvedic or Fine Arts College, the Principal of such colleges shall be the *ex officio* Dean of Medical, Engineering, Ayurvedic or Fine Arts Faculty, as the case may be];

Provided further that where there is more than one such college, the Deanship of each such Faculty shall rotate amongst the Principals of such colleges :

³[Provided also that if there is no Professor in the Faculty, the office of Dean shall be held by Readers, and if there are no Readers, then by other teachers in that Faculty, by rotation in order of seniority].

(5) The Dean shall be the Chairman of the Board of Faculty and be responsible for—

- (a) the organization and conduct of the teaching and research work of departments comprised in the Faculty; and
- (b) the due observance of the Statutes, Ordinances and Regulations relating to the Faculty.

1. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

2. Subs. by U.P. Act No. 29 of 1974.

3. Subs. by U.P. Act No. 5 of 1977.

¹[(6) In each department of teaching in the University, there shall be a Head of the Department whose appointment shall be regulated by Statutes :

Provided that every person holding the office of Head of Department immediately before the date of commencement of this sub-section shall, subject to the provisions of this Act and the Statutes, continue to hold office on the same terms and conditions as he held immediately before the said date].

(7) The Head of Department shall be responsible to the Dean for the organization of teaching in the department and have such other powers and duties as may be provided in the Ordinances.

(8) There shall be constituted in accordance with the provisions of the Ordinances, Boards of Studies in respect of different subjects of study and more than one subject may be assigned to one Board of Studies.

SYNOPSIS

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| 1. Office of Dean of Faculty—A public office. | 2. If only one Professor in a Faculty, he will continue to be the Dean. |
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1. *Office of Dean of Faculty—A public office.*—The office of Dean of Faculty in University is a public office and it is of substantive character and as such a petition challenging his appointment and seeking a writ of *quo warranto* will lie. *Rameshwarans Bhadada v. University of Jodhpur*, 1973 (2) S.L.R. 716.

2. *If only one Professor in a Faculty, he will continue to be the Dean.*—If there is only one Professor, he will get representation in the Senate without there being only election, and such representation to a Dean is not envisaged in the scheme of the Act by the process of election. *K.S. Siddalingaiah v. State*, A.I.R. 1979 Karnataka 190.

28. *Admissions Committee.*—(1) There shall be an Admissions Committee of the University the constitution of which shall be such as may be provided for in the Ordinances.

(2) The Admission Committee shall have the power to appoint such number of sub-committees as it thinks fit.

(3) Subject to the superintendence of the Academic Council and to the provisions of sub-section (5), the Admissions Committee shall lay down the principles or norms governing the policy of admission to various courses of studies in the University and may also nominate a person or a sub-committee as the admitting authority in respect of any course of study in an institute or a constituent college maintained by the University.

(4) Subject to the provisions of sub-section (5), the Committee may issue any direction as respects criteria or methods of admission ²[(including the number of students to be admitted)] to constituent colleges maintained by the State Government and affiliated or associated colleges, and such directions shall be binding on such colleges.

³[(5) Notwithstanding anything contained in any other provision of this Act,—

1. Subs. by U.P. Act No. 29 of 1974.
 2. Ins. by U.P. Act No. 21 of 1975.
 3. Subs. by U.P. Act No. 20 of 1974 (w.e.f. 15-7-1994).

- (a) reservation of seats for admission in any course of study in University, Institute, constituent college, affiliated college or associated college for the students belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens may be made and regulated by such orders as the State Government may, by notification, make in that behalf :

Provided that reservation under this clause shall not exceed fifty per cent of the total number of seats in any course of study :

Provided further that reservation under this clause shall not apply in the case of an institution established and administered by minorities referred to in Clause (1) of Article 30 of the Constitution :

Provided also that the reservation under this clause shall not apply to the category of Other Backward Classes of citizens specified in Schedule II to the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 :

- (b) admission to medical and engineering colleges and to courses of instruction for degrees in education and Ayurvedic or Unani systems of medicine (including the number of students to be admitted), shall subject to Clause (a), be regulated by such orders (which if necessary may be with retrospective effect, but not effective prior to January 1, 1979) as the State Government may by notification, make in that behalf :

Provided that no order regulating admission under this clause shall be inconsistent with the rights of minorities in the matter of establishing and administering educational institutions of their choice;

- (c) in making an order under Clause (a), the State Government may direct that any person who wilfully acts in a manner intended to contravene, or defeat the purposes of the order shall be punishable with imprisonment for a term not exceeding three months or with fine not exceeding one thousand rupees, or with both, as may be specified in the order.

(5-A) Every order made under Clause (a) of sub-section (5) shall be laid, as soon as may be, before both Houses of the State Legislature and the provisions of sub-section (1) of Section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act].

(6) No student admitted to any college in contravention of the provisions of this section shall be permitted to take up any examination conducted by the University, and the Vice-Chancellor, shall have the power to cancel any admission made in such contravention.

SYNOPSIS

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| 1. Admission must be on the basis of merits. | 4. Extent of reservation. |
| 2. University-wise reservation. | 5. Purpose and object of reservation in admission. |
| 3. University wise reservation— Extent. | 6. Action for infraction of guidelines against affiliated college. |

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| <p>7. State Government can run Medical and Engineering Colleges.</p> <p>8. Parties to the petition challenging admission.</p> <p>9. Authority to be estopped in case of breach of ordinance.</p> <p>10. In certain circumstances, students can resort to estoppel.</p> <p>11. Student—Research scholar included.</p> <p>12. Application of equitable estopped against University.</p> <p>13. Allahabad University Act, 2005—Sections 28 (1), 28 (2), 28 (5), 8 (2).</p> | <p>3(n) and 7—First Statute of University, Statutes 30 (4) and 30 (5)</p> <p>14. U. P. State University Act, 1973, Section 28 (5)—Reservation for girl-students.</p> <p>15. U.P. State Universities (Regulation of Admission to Courses of Instructions for Degree in Education in Affiliated, Associated and Constituent Colleges) Orders, 1987—Government Order dated 9-9-2004.</p> |
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1. *Admission must be on the basis of merits.*—In all cases of selection whether it be a civil post or in a college or in any other institution maintained by the State, the most meritorious candidate, if he does not suffer from any other disability, is required to be selected by the appropriate selection authority, and if the same is not done, it is well settled that the same would result in violation of Article 14 of the Constitution of India. *Dr. Y. Shantha v. Government Medical College*, A.I.R. 1978 Karnataka 66.

2. *University-wise reservation.*—Where in a certain case, the validity of this rule came up for consideration that 70% of the seats at the post-graduate level be reserved for the Delhi University graduates and the remaining 30% open to all including the graduate of Delhi. It was observed that 70 per cent reservation is too high and as such would be unconstitutional. Krishna Iyer, J., who gave the majority judgment, observed as follows :

“We recognise that institution-wise reservation is constitutionally circumscribed and may become *ultra vires*, if recklessly resorted to. But, even such rules, until revised by competent authority or struck down judicially, will rule the roost. That is why we have to concede that until the signpost of “no admission for outsiders” is removed from other Universities and some fair percentage of seats in other Universities is left for open competition the Delhi students cannot be made martyrs of the Constitution. *Dr. Jagdish Saran v. Union of India*, A.I.R. 1980 S.C. 820 : 1980 (2) SCC 768.

3. *University-wise reservation—Extent.*—University-wise reservation was challenged as unconstitutional. It was held by the Supreme Court that under certain circumstances, University-wise classification and reservation was constitutionally permissible. *D.N. Chachale v. State of Mysore*, (1971) Supp. S.C.R. 608 : (1971) 2 S.C.C. 293 : A.I.R. 1971 S.C. 1762.

4. *Extent of reservation.*—Reservation is not an end, but a means a means to secure social and economic justice. However, the real solution lies in eliminating the causes that have led to the social, educational and economic backwardness of the weaker section of the community. But till, such time as that is not achieved, reservation is a measure “compensatory in character”, means to “mitigate surmountable obstacles to ensure equality of opportunity. *State of Kerala v. N. M. Thomas*, A.I.R. 1976 S.C. 490.

Where 54 seats were reserved out of 100, it was held by the learned Chief Justice that it would destroy equality. *T. Devadasan v. Union of India*, A.I.R. 1964 S.C. 179.

Reservation is permissible only to a limited extent. The maximum permissible limit of the reservation was first considered by the Supreme Court some 12 years after coming into force of the Constitution in *M.R. Balaji v. State of Mysore*, A.I.R. 1963 S.C. 649. It was held that.....speaking generally and in a broad way, a special provision should be less than 50 per cent; how much less than 50 per cent would depend upon the relevant prevailing circumstances in each case. The question posed was whether 50 per cent was the maximum limit of reservation or that Balaji's case permitted reservation even beyond 50 per cent. In that case, it was held by this Court that reservation of more than half of the seats in an educational institution for being filled up from members of the backward classes is constitutional. *M. R. Balaji v. State of Mysore*, A.I.R. 1963 S.C. 649.

5. Purpose and object of reservation in admission.—According to Article 46 of the Constitution, the State shall promote with special care, the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

It cannot be gainsaid that when the Constitution came into force, a section of the population was socially and educationally backward. The causes, according to the backward class commission of backwardness amongst the educationally and socially backward classes, were—

- (1) Traditional apathy for education on account of social and environmental conditions or occupational handicaps;
- (2) Poverty and lack of educational institution in rural areas;
- (3) Living in inaccessible areas;
- (4) Lack of residential hostel facilities;
- (5) Unemployment among the educated which acts as damper on the desire of the members to educate their children;
- (6) Lack of adequate educational aids such as free studentship, scholarship and monetary grants;
- (7) Defective educational system which does not train students for appropriate occupations and professions. *M.R. Balaji v. State of U.P.*, A.I.R. 1963 S.C. 649.

6. Action for infraction of guidelines against affiliated college.—The guidelines issued by the Universities to all the colleges of Education affiliated thereto for the purposes of admission to the B.Ed. course are totally well encompassed within the statutory sanction. Consequently, it would follow that for the infraction of the guidelines, University is entitled to take action against the college and withdraw the affiliation and refuse registration to the students admitted in contravention thereof. *Kurukshetra University v. Rural College of Education (F.B.)*, A.I.R. 1980 Punjab and Haryana 103.

7. State Government can run Medical and Engineering Colleges.—The State Government can run Medical and Engineering Colleges, it cannot be denied the power to admit such qualified students as pass the reasonable tests laid down by it. This is a power which every private owner of a college will have, and the Government which runs its own colleges, cannot be denied that power. *Chitralekha v. State of Mysore*, A.I.R. 1964 S.C. 1823.

8. Parties to the petition challenging admission.—It is necessary that selected candidates as well as the University should be made parties to the writ petition otherwise it would not be maintainable. *Padamraj Samarendra v. State*, A.I.R. 1979 Pat. 266 (F.B.).

9. *Authority to be estopped in case of breach of ordinance.*—Where in a certain case, a student is admitted in violation or breach of an ordinance issued by the University and the ordinance further provided that the University authorities had the power to grant exemption from the operation of any of the ordinances governing the admission of the student, it was held that the admission of the student in such a case was only contrary to the ordinance, and not *ultra vires*, but only an irregular act and as such, the doctrine that there could be estoppel against the statute had no application in the case. *Delhi University v. Ashok Kumar*, A.I.R. 1968 Delhi 131; *K.K. Jacob v. Madurai University (D.B.)*, A.I.R. 1978 Madras 315.

10. *In certain circumstances, students can resort to estoppel.*—An admission made contrary to the provisions of this section is illegal, but in certain circumstances, the students can allege that the University is estopped from cancelling the admission of the student was permitted to prosecute his course of study throughout the academic years. If provisional admission made, the authorities are estopped from cancelling the admission after the academic year is over. *Delhi University v. Ashok Kumar*, A.I.R. 1968 Delhi 131.

11. *Student—Research scholar included.*—Any one joining the research classes is as much a student of the University as a student studying in B.A., B.Sc. or B.Com.—Special Appeal No. 193 of 1973, *Vice-Chancellor, University of Allahabad v. Jagdish Chandra Dixit*, decided by Division Bench of Allahabad High Court on 27-9-1973.

12. *Application of equitable estoppel against University.*—Where a student was admitted to M.A. Part I, though the said student was not eligible and he did not secure the minimum prescribed percentage of marks in a B.A. examination, the University had informed the concerned college that the said student's admission be cancelled but since the college did not inform the student and the said student regularly attended the class throughout the academic year and was informed only a few days before the examination. It was held that in the circumstances, the principle of equitable estoppel and the University could not refuse her from appearing at the examination. *Miss Sangeeta v. Prof. U. N. Singh*, A.I.R. 1980 Delhi 27.

13. *Allahabad University Act, 2005—Sections 28 (1), 28 (2), 28 (5), 8 (2), 3 (n) and 7—First Statute of University, Statutes 30 (4) and 30 (5)*—Motilal Nehru College (MLNC) and Swaroop Rani Nehru Hospital (SRNH) are University Colleges. In the instant cases, the State Government had raised an issue by way of two applications that Statute 30 (4) be amended by the Executive Council of the University so as to exclude the said MLNC and SRNH as University Colleges. It was held that the power, which is to be exercised by the Executive Council of the University under Section 28 (2) of the Act, is a legislative power. Thus, a direction cannot be issued to the Executive Council to consider about the applications of the State Government to amend the First Statute of the University. The contention of the State Government is regards discrimination *vis-a-vis* Kamla Nehru Post Graduate Medical Institute, Allahabad and Harish Chandra Research Institute was not admitted. Besides, the a State Government's this plea was also not accepted that as the MLNC was a constituent College of the University under U.P. State University Act, 1973, therefore, it should continue as such under Section 8 (2) of Act, 2005 also. It is for the legislation to determine whether a particular college will be a University College or not. Since the MLNC and SRNH have been declared University Colleges under Statute 30 (4), therefore the said applications of the State Government were rejected. *Satish Chaturvedi v. State of U.P.*, (2007) 1 U.P.L.B.E.C. (Sum) 22 (Alid).

14. U. P. State University Act, 1973, Section 28 (5)—Reservations for girl-students.—In a certain case, where Notifications dated 26-8-1989 and 16-6-2000 were issued by Governor/Chancellor in which preference for branch and institution upto one-third of total seats of girl-candidates was provided, whereas there was no reservations in any other statutory provision for the girls. U.P. State Engineering Admission Test, 2001 was organised. Government Orders dated 17-5-94 and 22-11-95 were also issued in between to the same effect. Does such preference violate Articles 14, 15 (1) and 15 (4) of Constitution of India read with Article 29 (2)? Does such preference amount to indirect reservation? It was held that preference/indirect reservation to girls provided by notification, while no such reservations was under any statute, is *ultra vires*. *Sandeep Poddar v. State of U.P.*, (2001) 3 U.P.L.B.E.C. 1968 (Alld.).

15. U.P. State Universities (Regulation of Admission to Courses of Instructions for Degree in Education in Affiliated, Associated and Constituent Colleges) Orders, 1987—Government Order dated 9-9-2004.—In a certain case, where a dispute arose regarding the management quota of seats as to who will determine the percentage of management quota of seats—State Government or University to which the institution is affiliated. In such an event, a question arose whether G.O. dated 9-9-2004 is binding on the University and on the institution as well. Whether fixation of management quota seats under G.O. dated 9-9-2004 to the extent of 15% is arbitrary and violative of decision of Supreme Court in *T.M.A. Pai's case*, (2002) 3 U.P.L.B.E.C. 2817 (S.C.). Whether the Committee constituted by the State Government in *Islamic Academy's case*, (2003) 3 U.P.L.B.E.C. 2424 (S.C.), having not recommended any percentage of management quota seats for the academic year 2003-04, the quota of 50-80% should be applied for the year 2004-05 also. Whether the management is entitled to fill in the management quota seats on the basis of the marks obtained in graduate courses. *Association of Professional Colleges and others v. State of Uttar Pradesh and another*, (2005) 1 U.P.L.B.E.C. 554 (Alld.).

29. Examinations Committee.—(1) There shall be an Examinations Committee in the University, the constitution of which shall be as may be provided for in the Ordinances.

(2) Except as provided in sub-section (2) of Section 42, the Committee shall supervise generally all examinations of the University, including moderation and tabulation, and perform the following other functions, namely :

- (a) to appoint examiners and moderators and if necessary, to remove them;
- (b) to review from time to time the results of University examinations and submission of reports thereon to the Academic Council;
- (c) to make recommendations to the Academic Council for the improvement of the examination system;
- (d) to scrutinise the list of examiners proposed by the Board of Studies, finalise the same and declare the result of the University.

(3) The Examinations Committee may appoint such number of sub-committee as it thinks fit, and in particular may delegate to any one or more persons or sub-committees the power to deal with and decided cases relating to the use of unfair means by the examinees.

¹[(4) Notwithstanding anything contained in this Act, it shall be lawful for an Examination Committee or, as the case may be, for a sub-committee or any person to whom the Examinations Committee has delegated its power in this behalf under sub-section (3), to debar an examinee from future examinations of the University, if in its or his opinion, such examinee is guilty of using unfair means at any such examinations].

30. Other Authorities.—The constitution, powers and duties of other authorities of the University shall be such as may be prescribed.

CHAPTER VI

APPOINTMENT AND CONDITIONS OF SERVICE OF TEACHERS AND OFFICERS

31. Appointment of Teachers.—(1) Subject to the provisions of this Act, the teachers of the University and the teachers of an affiliated or associated college (other than a college maintained exclusively by the State Government ²[* * *]) shall be appointed by the Executive Council or the Management of the affiliated or associated college, as the case may be, on the recommendation of a Selection Committee in the manner hereinafter provided. ³[The Selection Committee shall meet as often as necessary].

(2) The appointment of every such Teacher, Director and Principal not being an appointment under sub-section (3), shall in the first instance be on probation for one year which may be extended for a period not exceeding one year.

Provided that no order of termination of service during or on the expiry of the period of probation shall be passed—

- (a) in the case of a teacher of the University, except by order of the Executive Council made after considering the report of the Vice-Chancellor and (unless the teacher is himself the Head of the Department), the Head of the Department concerned;
- (b) in the case of Principal of an affiliated or associated college, except by order of the Management; and
- (c) in the case of any other teacher of an affiliated or associated college, except by order of the Management made after considering the report of the Principal and (unless such teacher is the senior-most teacher of the subject), also of the seniormost teacher of the subject:

⁴[Provided further that no such order of termination shall be passed except after notice to the teacher concerned giving him an opportunity of explanation in respect of the grounds on which his services are proposed to be terminated :

Provided also that if a notice is given before the expiry of the period of probation or the extended period of probation, as the case may be, the period of

1. Ins. by U.P. Act No. 5 of 1977.

2. The words "or by a local authority" omitted by U.P. Act No. 12 of 1978.

3. Ins. by U.P. Act No. 1 of 1992 (w.e.f. 22-11-1991).

4. Ins. by U.P. Act No. 5 of 1977.

probation shall stand extended until the final order of the Executive Council under Clause (a) of the first proviso or, as the case may be, until the approval of the Vice-Chancellor under Section 35 is communicated to the teacher concerned].

(3) (a) In the case of teacher of the University other than a Professor, the Vice-Chancellor in consultation with the Dean of the Faculty and the Head of the Department concerned and an expert nominated by the Chancellor in that behalf and in the case of a teacher of an affiliated or associated college, the Management in consultation with an expert nominated by the Vice-Chancellor in that behalf may make officiating appointment in a vacancy caused by the grant of leave to an incumbent for a period not exceeding ten months without reference to the Selection Committee, but shall not fill any other vacancy or post likely to last for more than six months without such reference.

¹[(b) Where before or after the commencement of this Act, any teacher is appointed (after reference to a Selection Committee) to a temporary post likely to last for more than six months, and such post is subsequently converted into a permanent post or to a permanent post in a vacancy caused by the grant of leave to an incumbent for a period exceeding ten months and such post subsequently becomes permanently vacant or any post of same cadre and grade is newly created or falls vacant in the same department, then unless the Executive Council or the Management, as the case may be, decides to terminate his services after giving an opportunity to show cause, it may appoint such teacher in a substantive capacity to that post without reference to a Selection Committee.

Provided that this clause shall not apply unless the teacher concerned holds the prescribed qualifications for the post at the time of such substantive appointment, and he has served continuously, for a period of not less than one year after his appointment made after reference to a Selection Committee :

Provided further that appointment in a substantive capacity under this clause of a teacher who had served, before such appointment, continuously for a period of less than two years, shall be on probation for one year which may be extended for a period not exceeding one year, and the provisions of sub-section (2) shall apply accordingly].

²[(c) Any teacher of the University who was appointed as Lecturer/part time Lecturer on or before December 31, 1997 without reference to the Selection Committee by way of a short term or part time arrangement in accordance with the provisions for the time being in force for such appointment, may be given substantive appointment by the Executive Council, if any substantive vacancy of the same cadre and grade in the same department is available if such teacher—

- (i) is serving as such on December 31, 1997 continuously since such initial appointment by way of short term/part time arrangement;

1. Subs. by U.P. Act No. 5 of 1977.

2. Subs. by U.P. Act No. 23 of 2004 (w.e.f. 20-5-2004).

- ¹[(ii) possess the qualifications required for regular appointment to the post under the provisions of the relevant Statutes in force on the date of the initial appointment;]
- (iii) has been found suitable for regular appointment by the Executive Council.

A teacher appointed by way of short term/part time arrangement as aforesaid who does not get a substantive appointment under this clause shall cease to hold such post on such date as the Executive Council may specify].

(4) (a) The Selection Committee for the appointment of a teacher of the University (other than the Director of an Institute and the Principal of a constituent college), shall consist of—

- (i) the Vice-Chancellor, who shall be the Chairman thereof;
- (ii) the Head of the Department concerned :

Provided that the Head of the Department shall not sit in the Selection Committee, when he is himself a candidate for appointment or when the post concerned is of a higher rank than his substantive post and in that event his office shall be filled by the Professor in the Department and if there is no Professor by the Dean of the Faculty :

²[Provided further that where the Chancellor is satisfied that in the special circumstances of the case, a Selection Committee cannot be constituted in accordance with the preceding proviso, he may direct the constitution of the Selection Committee in such manner as he thinks fit.];

- (iii) in the case of a Professor or Reader, three experts, and in any other case, two experts be nominated by the Chancellor;
- (iv) in the case of appointment of teachers in a department of a constituent medical college upgraded under any scheme sanctioned by the Central Government, one nominee each of the Central Government and the State Government;
- (v) in the case of appointment of teachers of an Institute or constituent college, the Director of the Institute or the Principal of the constituent college, as the case may be.

(b) The Selection Committee for the appointment of the Director of an Institute or the Principal of a constituent college shall consist of—

- (i) the Vice-Chancellor, who shall be the Chairman thereof;
- (ii) two experts to be nominated by the Chancellor.

(c) The Selection Committee for the appointment of the Principal of an affiliated or an associated college (other than a college maintained exclusively by the State Government ³{ * * * }) shall consist of—

- (i) the Head of the Management, or a member of the Management nominated by him who shall be the Chairman;

1. Subs. by U.P. Act No. 23 of 2004 (w.e.f. 20-5-2004).

2. Ins. by U.P. Act No. 5 of 1977.

3. Words "or by a local authority" omitted by U.P. Act No. 12 of 1978.

- ¹[(ii) one of the Deans or Professors of those Faculties which comprise subjects taught in the college, to be nominated by the Vice-Chancellor];
- (iii) one member of the Management nominated by the Management; and
- (iv) two experts to be nominated by the Vice-Chancellor.

Provided that in the case of appointment of the Principal of an affiliated college, the Dean of Faculty shall not sit in the Selection Committee, if he is himself a teacher of that college :

Provided further that in the case of colleges established and administered by a minority referred to in Clause (1) of Article 30 of the Constitution of India, the experts shall be nominated by the Management from out of a panel of five experts by the Management suggested and approved by the Vice-Chancellor.

²[Provided also that in the case of colleges referred to in the preceding proviso, the Dean or Professor who shall be the member of the Selection Committee under sub-clause (ii) shall also be nominated by the Management from out of a panel of five Deans or Professors suggested by the Management and approved by the Vice-Chancellor, and if the requisite number of such Deans or Professors is not so available, the panel may include the names of Principals of affiliated or associated colleges].

(d) The Selection Committee for the appointment of other teachers of an affiliated or associated college (other than a college maintained exclusively by the State Government ³[* * *]) shall consist of—

- (i) the Head of the Management or a member of the Management nominated by him who shall be the Chairman;
- (ii) the Principal of the college and another teacher of the college nominated by the Principal;
- (iii) two experts to be nominated by the Vice-Chancellor :

⁴[Provided that in the case of a college where there is no Principal or other teacher available for being a member of the Selection Committee under sub-clause (ii), the remaining members referred to in this clause shall constitute such Selection Committee] :

Provided further that in the case of colleges established and administered by a minority referred to in Clause (1) of Article 30 of the Constitution of India, the experts shall be nominated by the Management from out of a panel of five experts suggested by the Management and approved by the Vice-Chancellor.

(5) (a) A panel of six or more experts in each subject of study shall be drawn up by the Chancellor after consulting the corresponding Faculty in Indian Universities or such academic bodies or research institutions in or outside Uttar Pradesh as the Chancellor may consider necessary. Every expert to be nominated by the Chancellor under sub-section (4) shall be a person whose name is borne on such panel.

1. Ins. by U.P. Act No. 12 of 1978.

2. Ins. by U.P. Act No. 5 of 1977.

3. Words "or by a local authority" omitted by U.P. Act No. 12 of 1978.

4. Ins. by U.P. Act No. 29 of 1974 and shall be deemed always to have been inserted.

of the Executive Council, the Chancellor may require the Executive Council to take a decision within such time as the Chancellor may, from time to time, allow and may direct the Vice-Chancellor to call a meeting of the Executive Council for that purpose :

Provided that—

- (i) if the Executive Council does not agree with the recommendations made by the Selection Committee, the Executive Council shall refer the matter to the Chancellor alongwith the reasons of such disagreement and his decision shall be final;
- (ii) if the Executive Council does not take a decision within the time allowed by the Chancellor, the Chancellor shall decide the matter and his decision shall be final).

(b) In the case of appointment of a teacher of an affiliated or associated college, if the Management does not agree with the recommendation made by the Selection Committee, the Management shall refer the matter to the Vice-Chancellor along with the reasons of such disagreement, and his decision shall be final :

Provided that in the case of appointment of a teacher of an affiliated or associated college, established and administered by a minority referred to in Clause (1) of Article 30 of the Constitution of India, if the Management does not agree with the recommendation made by a Selection Committee, the Management shall have the right to appoint another Selection Committee and the decision of that Committee shall be final.

(9) The disqualification of members of Selection Committee for appointment of teachers of the University and the Principals and other teachers of such affiliated or associated colleges on the ground of interest for participating in the deliberations of such Committees and other matters relating to appointment of such Principals and teachers shall be prescribed by the Statutes.

(10) No selection for any appointment under this section shall be made except after advertisement of the vacancy in at least three issues of two newspapers having adequate circulation in Uttar Pradesh.

¹[(11) (a) No teacher recommended by the Selection Committee shall be appointed by the Management of an affiliated or associated college (other than a college maintained exclusively by the State Government) unless prior approval of the Vice-Chancellor has been obtained.

(b) The Management shall, as soon as possible, after the meeting of the Selection Committee, submit the recommendations of the Committee, alongwith other relevant documents to the Vice-Chancellor for approval.

(c) The Vice-Chancellor, if he is satisfied that the candidate recommended by the Selection Committee does not possess the minimum qualifications or experience prescribed, or that the procedure laid down in the Act for the selection of the teacher has not been followed, shall convey to the Management his disapproval :

1. Subs. by U.P. Act No. 5 of 1977.

Provided that if the Vice-Chancellor does not convey his disapproval within a period of one month from the date of receipt of the documents referred to in Clause (b), or does not send to the Management any intimation in connection therewith, he shall be deemed to have approved the proposal.

(12) Notwithstanding anything contained in this section, the Executive Council, with the prior approval of the Chancellor, or the Management with the prior approval of the Vice-Chancellor, may appoint on deputation on the post of a teacher any Government servant who possesses the qualifications prescribed for the post].

(13) [* * *]

SYNOPSIS

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| 1. Inter-se seniority amongst the lecturers of one Department of the College—Gorakhpur University's First Statute—In Statute No. 18.11 | 3. Appointment—Section 31 (3) (c)—First Statute of Gorakhpur University, 1977, Statute 10.2—Substantive post of lecturer in Sanskrit. |
| 2. Appointment | |

1. *Inter-se seniority amongst the lecturers of one Department of the College—Gorakhpur University's First Statute—In Statute No. 18.11*—Procedure has been provided for determining seniority of lecturers in service. In Statute 18.13, procedure has been prescribed for determining seniority before the appointment on the basis of merit list prepared by Selection Committee. Such merit list is not available on record. On the representation made by a lecturer, the Vice-Chancellor determined seniority on the basis of alleged merit list without giving any opportunity of hearing to the petitioner. Seniority was determined by the Committee of Management on the basis of age under Statute 18.11. In such an event, it was held that the order of the Vice-Chancellor was violation of the principles of natural justice. *Smt. Usha Singh v. The Vice-Chancellor, Gorakhpur University and others*, (2000) 1 U.P.L.B.E.C. (Sum) 56 (All.).

2. *Appointment*.—Where in a certain case, resolution of Executive Council for appointment of the petitioner on the post of "Puran-Ilihas" was evidently illegal. Therefore, it was refused by the Chancellor. Since the resolution of the appointment was clearly found illegal. Hence, there is no need of interference. In such an event, this question arose as to whether the post was regular or it was temporarily irregular. It was held that the appointment of the petitioner was evidently illegal. This fact has no importance, that the post, on which the appointment was made, was irregular. It is common knowledge that persons appointed on temporary posts, continue to work for years together and they often obtain the age of superannuation from that very post. The Chancellor having found the resolution of the Executive Council for making appointment of the petitioner to be manifestly illegal, it is not possible for this Court to quash the same. *Dr. Umapati Upadhyaya v. Chancellor, Sampurnanand Sanskrit Vishwavidyalaya and others*, (2002) 2 U.P.L.B.E.C. 1311 (All.).

3. *Appointment—Section 31 (3) (c)—First Statute of Gorakhpur University, 1977, Statute 10.2—Substantive post of lecturer in Sanskrit*.—In a certain case, a claim of appointment was made by Junior Research Fellow in terms of Section 31 (3) (c) of the University Act, in such an event, it was held that the petitioner was not entitled because the Executive Council of the University has considered the candidature of only Research

1. Omitted by U.P. Act No. 10 of 1983 (w.e.f. 18-7-1981).

Fellows and Research Assistants and not that of Junior Research Fellow for the purpose of appointment. Representation of the petitioner was directed to be decided by the authority concerned by a reasoned and speaking order after giving opportunity of hearing to the petitioner. *Dr. Rajesh Kumar Mishra v. State of U.P. and others*, (2007) 1 U.P.L.B.E.C. (Sum) 12 (All.).

¹[31-A. Personal promotion to Teachers of University—(1) Notwithstanding anything to the contrary contained in any other provision of this Act ²[a Lecturer in the University appointed under Section 31, or a Reader in the University appointed under Section 31 or promoted under this Section], who has put in such length of service and possesses such qualifications, as may be prescribed, may be given personal promotion, respectively to the post of Reader or Professor].

(2) Such personal promotion shall be given on the recommendation of the Selection Committee, constituted under Clause (a) of sub-section (4) of Section 31, in such manner and subject to such conditions as may be prescribed.

(3) Nothing contained in this section shall affect the posts of the teachers of the University to be filled by direct appointment in accordance with the provisions of Section 31].

³[31-AA. Promotion to the post of Associate Professor and Professor.—(1) Notwithstanding anything contained in any other provision of this Act, an Assistant Professor substantively appointed in the Faculty of Medicine or Dental Sciences of the University of Lucknow or an Associate Professor, substantively appointed, or promoted under this section, in the said Faculties of the said University, who has put in such length of service and possesses such qualifications as may be prescribed, may be given personnel promotion respectively to the post of Associate Professor or Professor].

(2) The promotion under sub-section (1) shall be given on the recommendation of the Selection Committee, constituted under Clause (a) of sub-section (4) of Section 31, in such manner and subject to such conditions as may be prescribed.

Explanation.—With regard to the Faculty of Medicine or Dental Sciences of the University of Lucknow, the word “Reader” referred to in clause (a) of sub-section (4) of Section 31 shall be construed as “Associate Professor”.]

⁴[(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) or in any other provisions of this Act, every person who was promoted to the post of Associate Professor or Professor in a Faculty referred to in sub-section (1) in accordance with the Order No. 842/15-10-97-11(7)/96, dated April 11, 1997 issued by the State Government and is continuing in service as such on the date of the commencement of the Uttar Pradesh State Universities (Third Amendment) Act, 1999 shall be deemed to have been promoted to such post under sub-section (1) from the date of such promotion.

1. Ins. by U.P. Act No. 9 of 1985 (w.e.f. 10-10-1984).

2. Subs. by President's Act No. 4 of 1996 (w.e.f. 11-7-1996).

3. Ins. by U.P. Act No. 9 of 1998 (w.e.f. 19-9-1997).

4. Ins. by U.P. Act No. 21 of 1999.

¹[31-B. Special provision with regard to appointment.—(1) Notwithstanding anything to the contrary contained in any other provision of this Act or in the Uttar Pradesh Higher Education Services Commission Act, 1980, appointment to the post of principal or teacher of the Motilal Nehru Regional Engineering College, Allahabad shall be made in accordance with the rules and bye-laws of the Motilal Nehru Regional Engineering College Society, Allahabad.

(2) All appointments made before the commencement of the Uttar Pradesh State Universities (Amendment) Act, 1998 in accordance with the provisions of sub-section (1) shall be deemed to have been made under the said sub-section as if the provisions of the said sub-section were in force at all material times].

32. Contract of appointment of teachers of the University.—(1) Except as otherwise provided by Statutes, no salaried officer and teacher of the University shall be appointed except under a written contract which shall be consistent with the provisions of this Act, the Statutes and the Ordinances.

(2) The original contract shall be lodged with the Registrar and a copy thereof shall be furnished to the officer or teacher concerned.

(3) In the case of an officer or teacher employed before the commencement of this Act, all contracts in force, immediately before such commencement, shall, to the extent of any inconsistency with the provisions of this Act or the Statutes or the Ordinances be deemed to have been modified by the said provisions.

(4) Notwithstanding anything contained in any contract or other instrument, teachers of any constituent medical college shall not have right of private practice, except to such extent, if any, and subject to such conditions and restrictions as the State Government may, be general or special order specify.

COMMENT

Contractual employment.—In a certain case where the petitioners were appointed as Laboratory Attendant on contractual basis, the University had advertised the posts specifically mentioning that the appointment has been made on contractual basis. It is not permissible unless the provisions to make a claim for regularisation are not made in the statute. The appointment made on contractual basis will not provide right to continue on the post. When the right to continue on the post is not in accordance with either on the basis of the statute or otherwise, a writ of *mandamus* compelling the authorities to permit the petitioners to continue cannot be issued.—*Arvind Kumar Mishra and others v. Union of India and others*, (2010) 1 U.P.L.B.E.C. 789.

33. Pensions, Provident Fund, etc.—The University and every affiliated or associated college shall constitute, for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions ²[as may be specified by general or special order by the State Government] such pension, insurance or provident fund, as it may deem fit including a fund from which such teachers or their heirs, as the case may be, shall be paid pension or gratuity in the event of their incurring disability, wound or death in connection

1. Ins. by U.P. Act No. 9 of 1998 (w.e.f. 12-2-1998).

2. Subs. by U.P. Act No. 21 of 1975.

with the discharge of their duties as Superintendent of a Centre or invigilator as defined in Uttar Pradesh Universities (Provisions regarding Conduct Examinations) Act, 1965.

COMMENT

Pension and other retiral benefits.—In a certain case where the petitioner retires after serving as lecturer in a college aided by State of U.P., prior to his appointment on post of lecturer, he had served in Government school as a teacher for a period of more than 10 years. This period of service in M.P. will not be included for the purpose of computation on pension and other retiral benefits. For this purpose, criteria of service will be governed by the G.O. dated 24-12-1983 and not by the G.O. dated 29-8-1990 or the G.O. dated 5-3-2003. This is so because there is no agreement between State of M.P. and State of U.P. for including of period served in their states. The G.O. dated 24-12-1983 is in accordance with Section 33 of the U.P. State Universities Act, 1973.—*Dr. A.P. Palivval v. State of U.P.*, (2010) 3 U.P.L.B.E.C. 2365.

34. Limits of additional remunerative work permissible to teachers.—The conditions regarding payment of remuneration to the teachers of a University or for an affiliated or an associated college for any duties performed in connection with any examination conducted by an Indian University or any body other than Public Service Commission¹ [* * *] shall be such as may be prescribed.

(2) No teacher of the University or of an affiliated or associated college shall at any time, hold more than one remunerative office carrying duties other than teaching or duties connected with any examination.

Explanation.—The words 'remunerative offices' include the office of Warden or Superintendent of a Hall or Hostel, Proctor, Games Superintendent, Librarian, and any office in the National Cadet Corps, National Service Organisation, National Social Service Scheme and University Employees Exchange.

35. Conditions of service of teachers of affiliated or associated colleges other than those maintained by Government or local authority.—(1) Every teacher in an affiliated or associated college (other than a college maintained exclusively by the State Government)² [* * *] shall be appointed under a written contract which shall contain such terms and conditions as may be prescribed. The contract shall be lodged with the University and a copy thereof shall be given to the teacher concerned, and another copy thereof shall be retained by the college concerned.

(2) Every decision of the Management of such college to dismiss or remove a teacher or to reduce him in rank or to punish him in any other manner shall not take effect unless it is communicated to him, he reported to the Vice-Chancellor and shall not take effect unless it has been approved by the Vice-Chancellor :

Provided that in the case of colleges established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India, a decision of the Management dismissing, removing or reducing in rank

1. Words "and the holding of remunerative offices by them" omitted by U.P. Act No. 29 of 1977.
2. Words "or by a local authority" omitted by U.P. Act No. 12 of 1978.

punishing in any other manner any teacher shall not require the approval of the Vice-Chancellor, but, shall be reported to him and unless he is satisfied that the procedure prescribed in this behalf has been followed, the decision shall not be given effect to.

(3) The provisions of sub-section (2) shall also apply to any decision terminate the services of a teacher, whether by way of punishment otherwise but shall not apply to any termination of service on the expiry of a period for which the teacher was appointed :

Provided that in the case of colleges established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India, a decision of the Management terminating the service of any teacher shall require the approval of the Vice-Chancellor, but shall be reported to him : unless he is satisfied that the procedure prescribed in this behalf has been followed, the decision shall not be given effect to.

(4) Nothing in sub-section (2) shall be deemed to apply to an order of suspension pending inquiry, but any such order may be stayed, revoked or modified by the Vice-Chancellor :

Provided that in the case of colleges established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India, such order may be stayed, revoked or modified by the Vice-Chancellor only if the conditions prescribed for such suspension are not satisfied.

(5) Other conditions of service of teachers of such colleges shall be such as may be prescribed.

SYNOPSIS

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| 1. Termination of services. | 3. Appointment—U.P. Higher Education Service Commission Act, 1980. |
| 2. Constitutional validity challenged. | |

1. *Termination of services.*—In a case where matter has been concluded in a round of litigation in which writ petition, review petition and special leave petition were dismissed. In the matter, nothing was left to be considered. The petitioner waited for years after the order of the Chancellor, but no sufficient explanation was offered. It was held that the Chancellor has rightly observed that after decisions of the High Court and Supreme Court, it is not proper to pass any order. It was found that the letter of appointment of the petitioner's services dated 6-9-1990 gives her no right to enforce the same after termination of services on 2-5-1990. It was held that in this regard, principle of constructive *res judicata* and laches do not permit the Court to reconsider the matter where error was found in impugned judgment and order. Review petition was dismissed. *Dr. Sharma v. State of U.P. and others*, (2009) 2 U.P.L.B.E.C. 1798 (All.).

2. *Constitutional validity challenged.*—Where in a certain case, in exercise of powers under Section 35 (2) and its proviso, proposal of the Management Committee to remove the Principal was not approved by the Vice-Chancellor, the order passed by the Vice-Chancellor was challenged by the writ petition. The constitutional validity was challenged. The High Court dismissed the writ on the ground that there exists an alternative remedy under Section 68. It was found that error of law was committed in the exercise of powers under Section 35 (2) and its proviso. The constitutional validity of Section 35 (2) was also challenged. The Chancellor also has the power to remove the Principal.

powers under Section 68, but he has no powers to consider the constitutional validity of a provision. Such power vests in High Court only. It was held that the High Court ought to have decided the writ. High Court was directed to decide writ petition on merits. *Committee of Management and another v. Vice-Chancellor and others*, (2009) 2 U.P.L.B.E.C. 1345 (All.).

3. *Appointment—U.P. Higher Education Service Commission Act, 1980.*—In a certain case where the U.P. Higher Education Service Commission had selected and recommended one "T" as principal of Mahila Degree College. After joining the post, she submitted her resignation letter. Thereafter, the commission recommended one "P" for the said post who joined. Writ petition was filed by "T" with a contention that she has taken back her resignation letter. On the direction of the writ Court, the Vice-Chancellor decided the representation of "T" directing the Committee of Management to hand over the charge of the office the principal to her. Besides, a writ petition was filed by "T" for compliance of the order of the Vice-Chancellor. The Court, while allowing the writ petition of "T", directed the Committee of Management to re-instate "T" as principal of the college forthwith. *Committee of Management, Prayag Mahila Vidyapeeth Degree College v. State of U.P. and others*, (2007) 2 U.P.L.B.E.C. (Sum) 68 (All.).

36. **Tribunal of Arbitration.**—(1) Any dispute arising out of a contract of appointment referred to in Section 32 or Section 33 shall be referred to a Tribunal of Arbitration which shall consist of the following members, namely—

- (a) in the case of an officer or teacher of the University, one member nominated by the Executive Council, one member nominated by the office or teacher concerned and one member (who shall act as convener) nominated by the Chancellor;
- (b) in the case of a teacher of an affiliated or associated college, one member nominated by the Management of the college, one member nominated by the teacher concerned, and one member (who shall act as convener) nominated by the Vice-Chancellor :

Provided that in the case of colleges established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India, the Convener shall be selected by the nominees of the Management and the teacher concerned out of a panel of five persons suggested by the Management and approved by the Vice-Chancellor :

Provided further that in the event of their failure to appoint the Convener within the time prescribed, the Vice-Chancellor shall nominate a Convener out of the panel.

(2) If for any reason, a vacancy occurs in the office of a member of the Tribunal, the appropriate person or body concerned shall nominate another persons in accordance with provisions of sub-section (1) to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The decision of the Tribunal shall be final and binding on the parties and shall not be questioned in any Court.

(4) The Tribunal of Arbitration shall have the power—

- (i) to regulate its own procedure;
- (ii) to order re-instatement of the officer or teacher concerned; and

- (iii) to award salary to the officer or teacher concerned, after deducting therefrom such income which such officer or teacher might have otherwise derived during his suspension, removal, dismissal or termination from service.

(5) Nothing contained in any law for the time being in force relating to arbitration shall apply to an arbitration under this section.

(6) No suit or proceedings shall lie in any Court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration :

Provided that every decision of the Tribunal referred to in sub-section (3) shall be executable by the lower Court having territorial jurisdiction, as if it were a decree of that Court.

CHAPTER VII

AFFILIATION AND RECOGNITION

37. **Affiliated Colleges.**—¹[(1) This section shall apply to the Universities of Doctor Bhimrao Ambedkar University, Agra, Dean Dayal Upadhyaya Gorakhpur University, Gorakhpur, Chhatrapati Shahu Ji Maharaj University, Kanpur, Chaudhary Charan Singh University, Meerut, Mahatma Jyotibha Phule Rohilkhand University, Bareilly, Vir Bahadur Singh Purvanchal University, Jaunpur, University of Bundel-Khand, Jhansi, Mahatma Gandhi Kashi Vidyapith, Varanasi, Doctor Ram Manohar Lohia Avadh University, Faizabad and such other Universities (not being the University of Lucknow) as the State Government may by notification in the Gazette, specify].

(2) The Executive Council may, with the previous sanction of the ²[State Government], admit any college which fulfils such conditions of affiliation, as may be prescribed, to the privileges of affiliation or enlarge the privileges of any college already affiliated or subject to the provisions of sub-section (8), withdraw or curtail any such privilege :

³[Provided that if in the opinion of the ⁴[State Government], a college substantially fulfils the conditions of affiliation, the ⁵[State Government], may sanction grant of affiliation to that college or enlarge the privileges thereof in specific subjects for one term of a course of study on such terms and conditions as he may deem fit :

⁶[Provided further that unless all the prescribed conditions of affiliation are fulfilled by a college, it shall not admit any student in the first year of the course of study for which affiliation is granted under the foregoing proviso after one year from the date of commencement of such affiliation.]

(3) It shall be lawful for an affiliated college to make arrangement with any other affiliated college situated in the same local area, or with the University, for co-operation in the work of teaching or research.

1. Subs. by U.P. Act No. 6 of 2009.

2. Subs. by U. P. Act No. 12 of 2007 (w.e.f. 2-6-2007).

3. Ins. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

4. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007).

5. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007).

6. Proviso Ins. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

(4) Except as provided by this Act, the management of an affiliated college shall be free to manage and control the affairs of the college and be responsible for its maintenance and upkeep, and its Principal shall be responsible for the discipline of its students and for the superintendence and control over its staff.

(5) Every affiliated college shall furnish such reports, returns and other particulars as the Executive Council or the Vice-Chancellor may call for.

(6) The Executive Council shall cause every affiliated college to be inspected from time to time at intervals not exceeding five years by one or more persons authorised by it in that behalf, and a report of the inspection shall be made to the Executive Council.

(7) The Executive Council may direct an affiliated college so inspected to take such action as may appear to it to be necessary within such period as may be specified.

(8) The privileges of affiliation of a college which fails to comply with any direction of the Executive Council under sub-section (7) or to fulfil the conditions of affiliation may, after obtaining a report from the Management of the college and with the previous sanction of the Chancellor, be withdrawn or curtailed by the Executive Council in accordance with the provisions of the Statutes.

¹[(9) Notwithstanding anything contained in sub-sections (2) and (8), if the Management of an affiliated college has failed to fulfil the conditions of affiliation, the ²[State Government] may, after obtaining a report from the Management and the Vice-Chancellor, withdraw or curtail the privileges of affiliation.]

³[(10) Notwithstanding anything to the contrary contained in any other provisions of this Act, a college, which has already been given affiliation to a University before the commencement of the Uttar Pradesh State Universities (Amendment) Act, 2003 in specific subjects for a specified period shall be entitled to continue the course of study for which admissions have already taken place but it shall not admit any student in the first year of such course of study without obtaining affiliation under sub-section (2).]

SYNOPSIS

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| 1. Affiliation of Institution— Application for. | 5. Affiliation to degree college by University—Powers of Chancellor —Scope for exercise of. |
| 2. Recognition to Colleges. | 6. Removal of name from roll of Faculty of Engineering and Technology—Aligarh Muslim University Ordinances (Academic), Chapter 34 (E), Clause 14.2— Constitution of India, 1950— Article 226. |
| 3. Affiliation of College for B.Ed. Course—National Council for Teachers Education Act, 1993— Sections 37 (2), 14, 2 (d), 2 (o) and 2 (n). | |
| 4. Examination. | |

1. Ins. by U.P. Act No. 5 of 1977, published in U.P. Gazette dated 2 June, 2007, Extra-ordinary, Part 2, Section (a).

2. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007).

3. Ins. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

7. Job not prohibited—LL.B. Course in Gorakhpur University.
8. Admission—LL.B. Course in Gorakhpur University—Estoppel.
9. Indian Medical Council Act, 1956—Sections 10-A and 19—U.P. State Universities Act, 1973—Sections 7, 5, 37 (2) and 37 (10).
10. Examination—Use of unfair means—Statute of Banaras Hindu University, Statutes 1.13.2, 1.13.3, 1.13.4, 1.13.6, 8.13.8, 8.13.9 and 8.13.10.
11. Examination—Cancellation of—On account of use of unfair means.
12. Examination—Banaras Hindu University Act, 1915—Sections 11 and 18.
13. Declaration of result—Allahabad University First Statute—Ordinance No. 2, Chapter XL, Rule 9—LL.B. Examination.
14. Admission in B.Ed. Course—Grant of recognition to educational institution—National Council for Teachers Education Act, 1993—Sections 14, 15, 18, 20 and 32—U.P. State Universities Act, 1973—Section 37 (2).
15. Admission in B.Ed. Course—U.P. State Universities (Regulation of Admission to Course of Institution for Degree in Education in Affiliated, Associated and Constituent College) Order, 1987—Chapter II, Regulations 7 (a) and 2.
16. Admission for M.Sc. Environment Management Course.
17. Admission for MFA two years course.
18. Availability of alternative remedy—Petition dismissed.
19. Challenge to Constitutionality.
20. Chancellor has powers to decide dispute.
21. Writ filed by Muslims—AMU not a University of Minorities.
22. Recognition to petitioner College.

1. *Affiliation of Institution—Application for.*—In a certain case, where applicant-College had given admission to the students in anticipation that it would get an affiliation, but it denied this fact in its counter-affidavit. In such an event, the matter was sent back to the State Government so as to decide the disputed fact of giving admission to the students during the pendency of the application for affiliation and then to settle the matter of affiliation. *Committee of Management, Shri Bhagwan Shiv Mahavidyalaya, Village Umedpur, Post-Ambarpur, District Etah and another v. State of U. P. and others*, (2009) 3 U.P.L.B.E.C. 2186 (All.).

2. *Recognition to Colleges.*—In a certain case, where the National Council of Teachers Education (NCTE) had granted recognition to petitioners-colleges under Section 14 (1) for running B.Ed. course of one year for Session 2003-04. The Chancellor, on the basis of this recognition, directed the affiliation of those colleges with the respondent-University. Soon thereafter on "A"'s complaint, the affiliation was taken back after the completion of the said Session. "A" had to file PIL also in the High Court whereupon the High Court directed that the matter be considered by an appropriate authority. In compliance of that direction, three member committee was constituted by Registrar for inquiry into the complaint. That committee submitted a report to the Registrar. On that basis, the order of withdrawal of the affiliation to petitioners colleges was passed by the Executive Council. It was found by the High Court that the order of withdrawing affiliation was passed without compliance of the procedure as mentioned in Sections 37 (2), 37 (7) and 37 (8). Besides it, no reasons were stated for doing so. Thus, the High Court

quashed that order and remanded the matter to the appropriate authority. *Shri Radh. Govind Mahavidyalaya Meerapur (Gopi) Aligarh, U.P. and another v. State of U.P. and others*, (2010) 1 U.P.L.B.E.C. 9 (All.).

3. Affiliation of College for B.Ed. Course—National Council for Teachers Education Act, 1993—Sections 37 (2), 14, 2 (d), 2 (o) and 2 (n).—The Vice-Chancellor has got power to grant affiliation to a college with the University for B.Ed. course. If the college concerned fulfils the conditions of affiliations, it can be exercised for one term. If those conditions are not fulfilled by the college, it is open to him to decline further affiliation for next term. In this case, the petitioner-college, which was recognised by National Council for Teachers Education, was granted provisional affiliation for one term. On the expiry of the term, the petitioner college applied for the recognition for the next term. Hence, he is estopped to contend that earlier affiliation was on permanent basis, and not for one term. But before the affiliation is refused, the petitioner-college is entitled to an opportunity of hearing. In absence of opportunity of hearing, the denial for affiliation is quashed. Directive is issued for reconsideration at the instance of the petitioner-college. *R. N. College, Opposite Pandavan Mandir, Hastinapur, Meerut through Secretary v. Chancellor, B.R. Ambedkar University Raj Bhawan, Lucknow and others*, (2006) 1 U.P.L.B.E.C. 1025 (All.) (L.B.).

4. Examination—In a certain case, where the petitioner—Institution was granted temporary affiliation by the University for three years. Later on, that affiliation was extended for further three years. Students were given admission to the institution. But, the University refused to take examinations of B.A Part I on the ground that the institution has not complied with certain formalities which were required. On the writ having been filed, the University was issued a direction to hold B.A. Part I examinations for regular students of the institution for the academic Session 2003-04 within two months. *Sri Radha Ramn Mahavidhyalaya, Adarsh Vidhyapeeth, Ruhipur, Ghazipur v. State of U.P. and others*, (2005) 1 U.P.L.B.E.C. 401 (All.)

5. Affiliation to degree college by University—Powers of Chancellor—Scope for exercise of—In the instant case, it was held that an affiliation can be granted only to that degree college by a particular University when it comes within territorial area mentioned in Section 5 read with Schedule. No objection certificate was given to the college by the State Government, but it cannot legalize illegal affiliation. *Dr. Akhtar Rizvi Educational Trust, Kaushambi v. State of U.P. and others*, (2006) 1 U.P.L.B.E.C. 1131 (All.) (F.B.).

6. Removal of name from roll of Faculty of Engineering and Technology Aligarh Muslim University Ordinances (Academic), Chapter 34 (E), Clause 14.2—Constitution of India, 1950—Article 226.—In a certain case where, the petitioner, a B.Tech course, was removed from faculty of Engineering and Technology, the order of which was challenged by a writ petition on the ground that the petitioner failed to obtain the minimum credit marks prescribed by the Clause 14.2 in the first and second semester examinations of first years. No interference could be made in that by the High Court in exercise of its jurisdiction because equity is also against it. Only this fact, that the result of the first semester was delayed cannot held him because he was found ineligible to earn requisite standard of marks, required for prestigious Central University student. Rule for fixation of standard of caring requisite credits is established by Rules and cannot be overlooked even for technical shortcomings due to extra-ordinary reasons. *Mohd. Mahfooz Alam v. Aligarh Muslim University, Aligarh and another*, (2006) 1 U.P.L.B.E.C. 166 (All.).

7. *Job not prohibited—LL.B. Course in Gorakhpur University.*—A job during the course of study of LL.B. Course is not prohibited. Thus, just this fact, that if a student of LL.B. Course joins any employment, he cannot render himself unfit to continue his study of LL.B. Course. He may continue his study and he may do his job after University hours. *Deen Dayal Upadhyaya Gorakhpur University, Gorakhpur and others v. Urmila Singh and others*, (2005) 3 U.P.L.B.E.C. 2792 (All.).

8. *Admission—LL.B. Course in Gorakhpur University—Estoppel.*—In a certain case, admission was given to the petitioner in Session 1999-2000. He continued his study. He passed LL.B. IInd year and he was given admission in LL.B. IIIrd year in Session 2002-03. In such an event, the University was estopped from cancelling his admission at a belated stage or from preventing him to appear in semesters of LL.B. IIIrd year. *Deen Dayal Upadhyaya Gorakhpur University, Gorakhpur and others v. Urmila Singh and others*, (2005) 3 U.P.L.B.E.C. 2792 (All.).

9. *Indian Medical Council Act, 1956—Sections 10-A and 19—U.P. State Universities Act, 1973—Sections 7, 5, 37 (2) and 37 (10).*—In a certain case, where the petitioner, a charitable trust was affiliated to the Medical College, Dental College and Physiotherapy College. Examinations were not held and the results were not declared by the University. In such an event, the petition was allowed by the Court, and it was held that since students were given admission by the said college after obtaining a permission from the Central Government and an affiliation from the University, therefore, the equity was in favour of the petitioner. The respondents University was directed to hold examinations and declare the results. *Subharati K.K.B. Charitable Trust, etc. v. State of U.P. and another, etc.*, (2006) 3 U.P.L.B.E.C. 2978 (All.).

10. *Examination—Use of unfair means—Statute of Banaras Hindu University, Statutes 1.13.2, 1.13.3, 1.13.4, 1.13.6, 8.13.8, 8.13.9 and 8.13.10.*—In a certain case, where a flying squad recovered geometry box finding that on its back side, some copying material had been written, when the petitioner was solving the geography paper of B.A. Part III examination. Later on, the examination, in which the petitioner had appeared and in which he was likely to appear in future during the current examination, was cancelled. The petitioner was given no opportunity of hearing. Against it, a writ petition was filed. The writ was allowed. It was held that since the unfair means committee is a quasi-judicial body/authority, therefore it was bound to provide an opportunity of hearing to the petitioner and give reasons in support of its decision, and because no opportunity of hearing was provided and no reasons were given, hence the impugned order was liable to be set aside, and it was accordingly set aside. The respondents were directed to declare the result of the petitioner. *Amit Anand Singh v. Vice-Chancellor, Banaras Hindu University, Varanasi, and others*, (2007) 1 U.P.L.B.E.C. (Sum) 9 (All.).

11. *Examination—Cancellation of—On account of use of unfair means.*—In a certain case, where while appearing in B.A. Part II examination, the petitioner had made some rough work with pencil on the last page of his answer book. Treating it as use of unfair means, the examination of the petitioner for the year 2002 was cancelled and he was debarred from the examination of 2003. On filing of the writ petition, it was held that the said writings cannot be treated to be an unauthorised material. Therefore, the cancellation of the result of the petitioner and debarring for 2003 exams was held to be wholly unjustified. *Shiv Shank Pandey v. The Vice-Chancellor, Allahabad University, Allahabad and others*, (2003) 4 U.P.L.B.E.C. 3619 (All.).

12. *Examination—Banaras Hindu University Act, 1915—Sections 11 and 18.*—In a certain case, for the candidate to appear in the examination the attendance was short. It was held that the University has a right to restrain any student from appearing in the examination, if his attendance is less than the required percentage. But, if the students were issued admit-cards, the University cannot unilaterally restrain them from appearing in the reappearing papers without giving them opportunity of hearing and it will be deemed that the University has condoned the deficiency of attendance. *Anuresh Kumar Chaudhary v Banaras Hindu University and others*, (2006) 3 U.P.L.B.E.C. 2404 (Alld.).

13. *Declaration of result—Allahabad University First Statute—Ordinance No. 2 Chapter XL, Rule 9—LL.B. Examination.*—It is compulsory for a candidate to obtain minimum 36% marks in each subject and 45% in aggregate. The petitioner obtained only 32% marks in Constitutional law in LL.B. 1st year. The petitioner's aggregate marks were less than 45%. He was wrongly promoted to LL.B. 2nd year. He went on studying. He appeared in LL.B. 3rd year examination. But, the result was to be subject to the decision of the case by the High Court. LL.B. 1st year's result subsequently declared failure after modifying previous declaration. The question, which arose, was whether promissory estoppel will apply even to nullify statutory provision of law? It was held that no principle of promissory estoppel can apply to nullify the statutory provision of law. Therefore, LL.B.'s 1st year examination result was rightly declared by modifying and declaring the candidate as failure according to statutory provisions. *Vice-Chancellor, University of Allahabad and another v. Som Prakash Ratnakar and another*, (2001) 3 U.P.L.B.E.C. 1964 (Alld.).

14. *Admission in B.Ed. Course—Grant of recognition to educational institution—National Council for Teachers Education Act, 1993—Sections 14, 15, 18, 20 and 32—U.P. State Universities Act, 1973—Section 37 (2).*—Where in a certain case, an institution applied for recognition of B.Ed. Course, and the application was rejected by Regional Office, and the appeal against the rejection was dismissed, in that situation, the admission to such institution can only be made, when permission is accorded by the N.C.T.E., merely because the State Government had issued no objection and order was passed under Section 37 (2) of the University Act cannot be permitted to be diluted. Since the applications for the Sessions 1996-97 and 1997-98 were not moved in time, rejection of the application by the Regional Office and the dismissal of appeal was not in proper and these orders attained finality. Since the petitioners have obtained B.Ed. degree from unrecognized institution, Courts shall not dilute the provisions of the Act and standards of education. Therefore, writ petition was dismissed. *Rajiv Kumar v. State of U.P. and another*, (2007) 3 U.P.L.B.E.C. 2855 (Alld.).

15. *Admission in B.Ed. Course—U.P. State Universities (Regulation of Admission to Course of Institution for Degree in Education in Affiliated, Associated and Constituent College) Order, 1987, Chapter II, Regulations 7 (a) and 2.*—Where in a certain case, an institute had been established for imparting education in B.Ed. course, which is a professional course. It cannot be disputed that for admission to any professional course, merit must always play an important role. The merit of a student can be determined for admission to professional institute either by the marks at the qualifying examination or on the basis of competitive Entrance Test. But, difficulty arises where the lists are sent by the University on the basis of competitive entrance examination for admission to private institutes and the students do not turn up to take admission, it results in vacant seats. In such a case, it cannot be disputed that private professional institutions are established

with huge expenditure in creating infrastructure, appointing staff and teachers, etc. If the seats are left vacant because the students do not take admission in the institute on the basis of merit list by the University, then the institution would suffer huge losses.

It is clear from the Government orders dated 14-2-1999 that these non-aided private colleges are required to fill the seats from the merit list prepared on the basis of combined entrance test, sent by the University. However, if the seats remained unfilled then the colleges are required to intimate the vacancies and ask for a second list. If the other list is furnished by the University within a week, then the students would be admitted on the basis of the list sent by the University otherwise the vacant seats would be filled by the private colleges on their own.

In this case, order dated 14-6-2002 passed by the respondents was quashed. The respondents are directed to treat the admission of students made by the petitioner in B.Ed. Course in the Session 2001-02 to be regular admission and declare the result of the students within a period of one month from the date a certified copy of this order is produced before respondent No. 2—*Aryan Institute of Management and Computer Studies, Agra v. Vice Chancellor, Dr. B.R. Ambedkar University (Popularly Known as Agra University), Agra and another*, (2004) 2 U.P.L.B.E.C. 1603 (Alld.).

16. Admission for M.Sc. Environment Management Course.—Where in a dispute regarding the admission in the course of M.Sc. Environment Management, eligibility was only B.Sc., the appellant cannot be denied the admission on the ground that the candidate secured the B.Sc. degree undergoing two years course. Appellant promptly filed a petition, in such a case, it was held by the Supreme Court that the High Court should have allowed it. Direction was issued to admit the appellant in the next session. *Sadanand Mishra v. Forest Research Institute*, (2002) 1 U.P.L.B.E.C. 922 (S.C.).

17. Admission for MFA two years course—Where in a certain case, in a dispute of admission in two-years course of M.F.A. of Aligarh Muslim University, the petitioner was asked to report before Admission Committee in Chairman's Office on specified date and time, but she reported one day late owing to some reasons. Thus, she was refused admission. In such a condition, the High Court, in exercise of his writ jurisdiction, cannot inquire about the sufficiency of reasons for the delay in reporting before Admission. *Kavita Yadav v. Aligarh Muslim University, Aligarh and others*, (2005) 1 U.P.L.B.E.C. 988 (Alld.).

18. Availability of alternative remedy—Petition dismissed.—Where in a certain case, the petition was filed against such an order against which there was already an alternative remedy, in such a case, the petition may be dismissed even though the writ petition had been admitted and there was exchange of affidavits between the parties. In the instant petition, under Section 68, there exists an alternative remedy against the impugned order. Hence, the petition was dismissed on the ground of availability of alternative remedy. There is absolute rule of law which debars the High Court from not dismissing writ petition on ground of alternative remedy. *Manvendra Mishra (Dr.) v. Gorakhpur University, Gorakhpur and others*, (2000) 1 U.P.L.B.E.C. 702 (Alld.).

19. Challenge to Constitutionality.—Where the petitioner is an Association of the teachers of the Allahabad University. Its each member is engaged in the job to educate the students community admitted to the various disciplines being conducted by the University. Certainly, they are involved in the academic affairs which is a primary function of the University. This academic activity is organised, regulated or promoted under the leadership of the Vice-Chancellor. Therefore, it cannot be gainfully said that the petitioners organisation of lecturers are not in any way interested or concerned with the

selection of the Vice-Chancellor. Therefore, the petitioners have a locus to maintain the petition. *Allahabad University Teachers' Association, Allahabad v. Chancellor, U.P. State Universities, Lucknow and another*, (2000) 1 U.P.L.B.E.C. 350 (Alld.).

20. Chancellor has powers to decide dispute.—The Chancellor has got all the powers to decide the disputes and the petitioner did not exhaust the remedy provided in the University Act and approached this Court. The case does not present special features warranting any interference in this case making it as an exception to the general rule that a party must exhaust the statutory remedy before approaching this Court. *Dr. Subhash Chandra Agrawal v. Vice-Chancellor, Chhatrapati Shahu Ji Maharaj University, Kanpur and another*, (2003) 4 U.P.L.B.E.C. 3550 (Alld.).

21. Writ filed by Muslims—AMU not a University of Minorities.—A writ was filed by Muslims by which Aligarh Muslim University was found to be not a University of minorities. A plea was taken that in the writ, the petitioner was not party. Therefore, the decision of that writ petition was not affected. Aligarh Muslim University did not file any impleadment application in that case, nor did it challenge that decision by filing review petition. That decision is binding on Aligarh Muslim University. *Dr. Naresh Agarwal v. Union of India*, (2005) 3 U.P.L.B.E.C. 2248 (Alld.).

22. Recognition to petitioner College.—In a certain case, where the petitioner-college were given recognition by the National Council of Teachers Education (NCTE) to run B.Ed. course of one year under Section 14 (1) of the NCTE Act, 1993 for Session 2003-04, the Chancellor on that basis directed affiliation of those colleges with respondent-University. But, soon, on the complaint of "A", this affiliation was taken back at the end of the said session. A public interest litigation was filed by "A" in the High Court in which the High Court directed that the matter of complaint be considered by an appropriate authority. In compliance of that direction, a three-member committee was constituted by the Registrar of the University. This committee presented its report to the Registrar and on the basis of the report, the order to withdraw the affiliation was passed by the Executive Council. The High Court found that the order to withdraw the affiliation of the petitioner-college was passed without following the relevant procedure contained in Section 37 (2), 37 (7) and 37 (8) of the U.P. State Universities Act, 1973 and no reasons were assigned therefor. The High Court quashed the order, and remanded the matter to the appropriate authority.—*Shri Radha Govind Mahavidyalaya Heerapur (Gopi), Aligarh, U.P. and another v. State of U.P. and others*, (2010) 1 U.P.L.B.E.C. 9.

38. Associated Colleges.—¹[(1) This section shall apply to the University Lucknow].

(2) Associated colleges shall be such as may be named by the Statutes.

(3) It shall be lawful for an associated college to make arrangements with any other associated college or colleges or with the University for co-operation in the work of teaching.

(4) The conditions of recognition of an associated college shall be prescribed by the Statutes or imposed by the Executive Council, but no associated college shall except with the previous approval of the ²[State Government], be authorised to impart instruction for post-graduate degrees.

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1. Subs. by U.P. Act No. 28 of 2006, published on 24th October, 2006 in U.P. Gazette, Extra-ordinary Part 1, Section (a).
 2. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007), published on 2 June, 2007 in U.P. Gazette, Extra-ordinary Part 1, Section (a).

Provided that if an associated college is refused recognition for imparting instruction for post-graduate degrees, such college may, with the approval of the ¹[State Government], be granted affiliation by any University referred to in Section 37, anything in Section 5 notwithstanding, and thereupon, such college shall cease to be an associated college.

(5) Except as provided by this Act, the Management of an associated college shall be free to manage and control the affairs of the college and be responsible for its maintenance and upkeep. The Principal of every such college shall be responsible for the discipline of its students and for the superintendence and control over its staff.

(6) The Executive Council shall cause every associated college to be inspected from time to time at intervals not exceeding three years by one or more persons authorised by it in this behalf and a report of the inspection shall be made to the Executive Council.

(7) The recognition of an associated college may, with the previous sanction of the ²[State Government], be withdrawn by the Executive Council, if it is satisfied after considering any explanation furnished by the Management, that it has ceased to fulfil the conditions of its recognition or that it persists in making default in the performance of its duties under this Act or in the removal of any defect in its work pointed out by the Executive Council.

³[(8) Notwithstanding anything in this section or in Section 5, any associated college situated within the area of any University to which this section applies, may, subject to such directions, as may be issued by the State Government in this behalf, be admitted to the privileges of affiliation by any University to which Section 37 applies.]

39. Disqualification for membership of Management.—A person shall be disqualified for being chosen as, and for being a member of the Management of an affiliated or associated college (other than a college maintained exclusively by the State Government or by local authority), if he or his relative accepts any remuneration for any work in or for such college or any contract for the supply of goods to or for the execution of any work for such college :

Provided that nothing in this section shall apply to the acceptance of any remuneration by a teacher as such or for any duties performed in connection with an examination conducted by the college or for any duties as Superintendent or Warden of a training unit or of a hall or hostel of the college or as a proctor or tutor or for any duties, of a similar nature in relation to the college.

Explanation.—The term 'relative' shall have the meaning assigned to it in the Explanation to Section 20.

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1. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007), published on 2 June, 2006 in U.P. Gazette, Extra-ordinary Part I, Section (a).
 2. Subs. by U.P. Act No. 12 of 2007 (w.e.f. 2-6-2007)
 3. Subs. by U.P. Act No. 19 of 1987.

40. Inspection, etc., of Affiliated and Associated Colleges.—(1) The State Government shall have the right to cause an inspection to be made by such person or persons as it may direct, of any affiliated or associated college, including buildings, laboratories and equipments thereof and also of the examinations, teaching and other work conducted or done by it, or cause an inquiry to be made in respect of any matter connected with the administration and finances of such college.

(2) Where the State Government decides to cause an inspection or inquiry to be made under sub-section (1), it shall inform the Management of the same and a representative appointed by the Management and where the Management fails to appoint a representative, the Principal of the college may be present at such inspection or inquiry and shall have the right to be heard on behalf of the Management but no legal practitioner shall appear, plead or act on behalf of the college at such inspection or inquiry.

(3) The person or persons appointed to inspect or inquire under sub-section (1) shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling production of documents and material objects, and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898¹ and any proceedings before him or them shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code.

(4) The State Government may communicate to the Management, the result of such inspection or inquiry and may issue direction as to the action to be taken and the Management shall forthwith comply with such directions.

(5) The State Government shall inform the Vice-Chancellor about any communication made by it to the Management under sub-section (4).

(6) The State Government may, at any time, call for any information from the Management or Principal of an affiliated or associated college in connection with such inspection or inquiry.

41. Constituent colleges.—(1) Constituent colleges shall be such as may be named by the Statutes.

(2) The Principal of a constituent college shall be responsible for the discipline of the students enrolled in the college and shall have general control over the ministerial and inferior staff allotted to the college. He shall exercise such other powers as may be prescribed by the Statutes.

42. Autonomous college.—(1) The University may grant in the manner prescribed, to an affiliated or associated college which satisfies the conditions prescribed in that behalf, the privileges of varying, for the students receiving instruction in such college, the course of study prescribed by the University, and holding examination in the courses so varied.

(2) The extent to which the courses may be varied and the manner of holding the examination conducted by such college shall be determined in each case by the University.

1. Now Cr.P.C., 1973 (2 of 1974).

(3) Such a college shall be declared in the manner prescribed as an autonomous college.

43. Working Men's Colleges.—The University may, under such conditions as may be prescribed, recognize, an affiliated or associated college as a 'Working Men's College' for the purpose of providing courses for degrees to persons, otherwise eligible for admission to such courses, who may be, unable to be enrolled as whole-time students by reasons of being engaged in business, trade, agriculture or industry or employed in any other form of service.

(2) The courses for such students shall extend over a period which shall not be less than one and a half time the duration prescribed for such courses for other students.

(3) Each such course shall be organized separately.

44. Institutes.—The University may establish one or more institutes to organize and conduct teaching and research in any subject.

CHAPTER VIII

ADMISSIONS AND EXAMINATIONS

45. Admission of Students.—(1) No student shall be eligible for admission to the course of study for a degree unless—

(a) he has passed—

(i) the Intermediate Examination of the Board of High School and Intermediate Education, Uttar Pradesh, or of any University or Board incorporated by any law for the time being in force; or

(ii) any examination, or any degree conferred by any other University, being an examination or degree recognized by the University as equivalent to the Intermediate Examination or to a degree of the University; and

(b) he possesses such further qualifications, if any, as may be specified in the Ordinances :

Provided that the University may prescribe by Ordinances any lower qualifications for admission to a degree in Fine Arts.

(2) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(3) The University shall have the power to recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degree, any degree conferred by any other University of, as equivalent to the Intermediate Examination of any Indian University, any examination conducted by any other authority.

(4) Any student whose work or conduct is unsatisfactory may be removed from the University or an Institute or a constituent college or an affiliated or associated college in accordance with the provisions of the Ordinances.

46. Bar of charging any donation, etc., for admission to a college.—No person connected with the management of an affiliated or associated college and no Principal or other teacher or other employee thereof shall directly or

indirectly take or receive or cause to be taken or received any contribution, donation, fees or any other payment of any sort, either in cash or in kind, except the fees at the rates laid down in the Ordinances, from or on behalf of any pupil ¹[as a condition for granting him admission to or permitting him after such admission to continue in such college].

²[46-A. Contribution and donations to Colleges.—Where a contribution or donation, either in cash or in kind is taken or received by any affiliated or associated college maintained exclusively by the State Government or a local authority, the contribution or donation so received shall be utilised only for the purpose for which it was given to it and in the case contribution or donation shall be operated in accordance with the general or special orders of the State Government].

47. Halls, hostels and delegacy of the University.—(1) This section shall apply to the University of Lucknow, ³[* * *], Gorakhpur and such other University the State Government may by notification specify.

(2) The halls and hostels of the University shall be—

- (a) those maintained by the University and named in the Statutes;
- (b) those recognized by the Executive Council on such general or special conditions as may be provided by the Ordinances.

(3) The warden and other staff of the halls and hostels shall be appointed in the manner provided by the Ordinances.

(4) The Executive Council shall have power to suspend or withdraw the recognition of a hall or hostel which is not maintained in accordance with the conditions referred to in clause (b) of sub-section (2) :

Provided that no such action shall be taken without giving to the management of such hall or hostel an opportunity of making a representative against the proposed action.

(5) There shall be a Delegacy to supervise the arrangements relating to the residence, health and welfare of students of the University not residing in or under the care of any constituent college or hall. The constitution, power and duties of the Delegacy shall be prescribed by the Statutes.

48. Examinations.—Subject to the provisions of this Act and the Statutes, the Examination Committee shall direct the arrangements for the conduct of examinations.

COMMENT

Fresh examinations.—In a certain case, where a writ petition was filed for fresh examinations of those students who had been left out in the main examination of the year 2008-09 within a month from the date of production of certified copy of the order. It was held by the Court that the University was under no obligation to hold re-examination for the students represented through the respondent. The appeal was allowed.—*Sampurnanand Sanskrit University, Varanasi and another v. Shanti Pandey and another*, (2010) 3 U.P.L.B.E.C. 2424.

1. Subs. by U.P. Act No. 5 of 1977.

2. Ins. by U.P. Act No. 5 of 1977.

3. The word "Allahabad" omitted by Act No. 26 of 2005 (w.e.f. 14-7-2007).

CHAPTER IX
STATUTES, ORDINANCES AND REGULATIONS

49. Statutes.—Subject to the provisions of this Act, the Statutes may provide for any matter relating to the University and shall in particular, provide for—

- (a) the constitution, power and duties of the authorities of the University;
- (b) the election, appointment and term of office of the members of the authorities of the University, including the continuance in office of the first members, and the filling in of vacancies in their membership and other matters relating to these authorities for which it may be necessary provide;
- (c) the powers and duties of the officers of the University;
- ¹{(d) the classification and recruitment (including minimum qualifications and experience) of Principals and other teachers of the University and of affiliated and associated colleges, the maintenance by them of their annual academic progress report, the rules of conduct to be observed by them and their emoluments and other conditions of service (including provisions relating to compulsory retirement);
- (e) the recruitment (including minimum qualifications and experience) and their emoluments and other conditions of service (including provisions relating to compulsory retirement) of persons appointed to other posts under the University;
- (f) the constitution of a pension or provident fund or the establishment of an insurance-scheme for the benefit of officers, teachers and other employees of the University;
- (g) the institution of degrees and diplomas;
- (h) the conferment of honorary degrees;
- (i) the withdrawal of degrees and diplomas, certificates and other academic distinctions;
- (j) the establishment, amalgamation, abolition and reorganisation of Faculties;
- (k) the establishment of departments of teaching in the Faculties;
- (l) the establishment, abolition and reorganisation of halls and hostels maintained by the University;
- (m) the conditions under which colleges and other institutions may be admitted to the privileges of affiliation or recognition by the University and the conditions under which any such privilege may be withdrawn;
- (n) the recognition of the Management of any affiliated or associated college;
- ²{(o) the number, minimum qualifications and experience, the emoluments and other conditions of service, including the age of retirement and

1. Subs. by U.P. Act No. 5 of 1977 and shall be deemed always to have been substituted.

2. Subs. by U.P. Act No. 5 of 1977.

provisions relating to compulsory retirement of salaried employees (not being teachers) of the University or an affiliated or associated college, and the preparation and maintenance of record of their service];

- (p) the institution of scholarships, fellowships, studentships, medals and prizes;
- (q) the qualifications, conditions and manner of registration of graduates and the maintenance of a register of registered graduates;
- (r) the holding of convocation, if any; and
- (s) all other matters which by this Act are to be or may be provided for by the Statutes.

COMMENT

Minimum qualification.—*Statute 50—Advocates Act, 1961—Section 7, Rule 12.*—Under Statute 50, the requirement of master's degree in any subject taught in the college was deleted. Whereas in Rule 12, such qualification has been prescribed. Both provisions are inconsistent. It was held that U.P. State Universities Act, 1973 being special legislation shall prevail over Advocates Act, which in a general legislation. Bar Council of India has got no power to prescribe minimum qualifications of teachers or principal. *Board of Management, Dayanand College of Law, Kanpur v. State of U.P. and others*, (2001) 1 U.P.L.B.E.C. 440 (All.).

50. Statutes how made.—The First Statutes of the University shall be made by the State Government by notification in the Gazette and in the case of any existing University, for so long as the First Statutes are not so made, the Statutes as in force immediately before the commencement of this Act, insofar as they are not inconsistent with the provisions of this Act, shall, subject to such adaptations and modifications whether by way of repeal, amendment or addition as may be necessary or expedient, as the State Government may, by notification in the Gazette provide, continue in force, and any such adaptation or modification shall not be called in question.

¹[(1-A) The State Government may by notification in the Gazette amend whether by way of addition, substitution or omission, the First Statutes at any time ²[up to December 31, 1990] and any such amendment may be retrospective to a date not earlier than the date of such commencement.]

³[(1-B) Until the First Statutes of the Purvanchal University are made under this section, the Statutes of the University of Gorakhpur, as in force immediately before the establishment of the said University shall apply to it subject to such adaptations and modifications as the State Government may, by notification, provide.]

⁴[(2) The Executive Council may, at any time ⁵[after December 31, 1990], make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1) or sub-section (1-A).]

1. Ins. by U.P. Act No. 29 of 1974.

2. Subs. by U.P. Act No. 9 of 1988.

3. Ins. by U.P. Act No. 19 of 1987.

4. Subs. by U.P. Act No. 29 of 1974.

5. Subs. by U.P. Act No. 9 of 1988.

(3) The Executive Council shall not propose the draft of any Statute affecting the status, power or constitution of any authority of the University until such authority has been given an opportunity of expressing its opinion upon the proposal and any opinion so expressed shall be in writing and shall be submitted to the Chancellor.

(4) Every new Statute or addition to a Statute or any amendment or repeal of Statute shall be submitted to the Chancellor who may assent to it or withhold his assent therefrom or remit it to the Executive Council for further consideration.

(5) A Statute passed by the Executive Council shall have effect from the date it is assented to by the Chancellor or from such later date as may be specified by him.

¹[(6) Notwithstanding anything contained in the foregoing sub-section the State Government may in order to implement any decision taken by it in the interest of learning, teaching or research or for the benefit of teachers, students or other staff or on the basis of any suggestion or recommendation of the University Grants Commission or the State or National Education Policy with regard to the qualifications of the teachers, require the Executive Council to make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1) or sub-section (1-A) within a specified time and if the Executive Council fails to comply with such requirement the State Government may, with the assent of the Chancellor, make new or additional statutes or amend or repeal the Statutes referred to in sub-section (1) or sub-section (1-A).]

²[(7) The Executive Council shall have no power to amend or repeal the Statutes made by the State Government under sub-section (6) or to make new or additional Statutes inconsistent with such Statutes.]

51. Ordinances.—(1) Subject to the provisions of this Act and the Statutes the Ordinances may provide for any matter which by this Act or the Statutes is to be or may be provided for the Ordinances.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Ordinance shall provide for the following matters, namely—

- (a) the admission of students to the University and their enrolment and continuance as such;
- (b) the courses of study to be laid down for all degrees, diplomas and other academic distinctions of the University;
- (c) the conditions under which students shall be admitted to the examinations, degrees and diplomas of the University and shall be eligible for the award of such degrees and diplomas;
- (d) the conditions of the award of scholarships, fellowships, studentships, burseries, medals, and prizes;
- (e) the conditions of residence of students at the University and the management of halls and hostels maintained by the University;

1. Subs. by U.P. Act No. 9 of 1988 (w.e.f. 19-9-1997).

2. Ins. by U.P. Act No. 4 of 1995 (w.e.f. 17-12-1994).

- (f) the recognition and management of halls and hostels not maintained by the University;
- (g) the maintenance of discipline among the students of the University;
- (h) all matters relating to correspondence courses and private candidates;
- ¹{(i) the formation of parent-teachers association};
- (j) the fees which may be charged by the University or by an affiliated or associated college for any purpose;
- (k) the conditions subject to which persons may be recognised as qualified to give instructions in halls and hostels;
- (l) the conditions and mode of appointment and the duties of examining bodies, examiners, moderators, invigilators and tabulators;
- (m) the conduct of examinations;
- (n) the remuneration and allowances including travelling any daily allowances to be paid to persons employed on the business of the University;
- (o) all other matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

SYNOPSIS

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|---|-------------------------------------|
| 1. Admission—M.Com. second year— U.P. State University Act, 1973— Section 51 and para 26 of the | Ordinance framed thereunder. |
| | 2. Admission—Special B.T.C. course. |
| | 3. Admission Fee—Refund of. |

1. Admission—M.Com. second year—U.P. State University Act, 1973—Section 51 and para 26 of the Ordinance framed thereunder.—The petitioner had passed M.Com., First year. He did not apply for admission in the second year of M.Com. next year. However, he applied for the admission in the second year of M.Com. after lapse of two years. The Universities authorities did not allow him the admission. While dismissing the writ, it was held that the University authorities were justified in refusing the admission in view of para 26 of the ordinance framed under the State Universities Act because the petition applied for admission after two years. *Sanjeev Kumar Jaiswal v. Vice-Chancellor, Mahatma Gandhi Kashi Vidyapeeth (University), Varanasi and others*, (2005) 2 U.P.L.B.E.C. 1563 (All.).

2. Admission—Special B.T.C. course.—Where the petitioner relied upon the circular of the University wherein, in para 3, it has been provided that examination in the correspondence course and regular examination is on the basis of the same question papers and in para 5, it is said that B.Ed. degree in respect of both the courses are similarly recognised, in such a case, it has been held that the order rejecting the candidature is not valid that the candidate has obtained B.Ed. degree in correspondence course. *Jitendra Kumar v. State of U.P. and others*, (2002) 2 U.P.L.B.E.C. 1301 (All.).

3. Admission Fee—Refund of.—Where in a certain case, the amount deposited on 7-7-2003 was only a part of the requisite fee, whereas the entire fee had been deposited by 16-

1. Subs. by U.P. Act No. 5 of 1977.

7-2003. Thus, the period for calculating three weeks must be deemed to have commenced from 16-7-2003 when entire fee had been deposited, and not from 7-7-2003. Therefore, the application for refund of the fee by the petitioner was within three weeks and we agree with the view taken by the learned single Judge. *Vice-Chancellor, Bundelkhand University, Jhansi and another v. Sushant Vatsa and another*, (2004) 2 U.P.L.B.E.C. 2094 (All.).

52. Ordinance how made.—(1) The first Ordinances of each existing University shall be the Ordinances as in force immediately before the commencement of this Act insofar as they are not inconsistent with the provisions of this Act :

Provided that for the purpose of bringing the provisions of any such Ordinances into accord with the provisions of this Act and the Statutes, the Chancellor may by order make such adaptations and modifications of the Ordinances whether by way of repeal, amendment or addition as may be necessary or expedient and, provide that the Ordinances shall as from such date as may be specified in the order have effect subject to the adaptations and modifications so made and any such adaptation or modification shall not be called in question.

(2) The First Ordinances of the Universities of Kumaun and Garhwal and of any other University to be established after the commencement of this Act shall be made by the State Government by notification in the Gazette.

¹[(2-A) Until the First Ordinances of the Purvanchal University are made under sub-section (2), the Ordinances of the University of Gorakhpur, as in force immediately before the establishment of the said University, shall apply to it subject to such adaptations and modifications as the State Government may, by notification, provide.]

(3) Save as otherwise provided in this section, the Executive Council may, from time to time, make new or additional Ordinances or may amend or repeal the Ordinances referred to in sub-sections (1) and (2) :

Provided that no Ordinance shall be made—

- (a) affecting the admission of students, or prescribing examinations to be recognized as equivalent to the University examinations or the further qualifications mentioned in sub-section (1) of Section 45 for admission to the degree courses of the University, unless a draft of the same has been proposed by the Academic Council; or
- (b) effecting the conditions and mode of appointment and duties of examiners and the conduct or standard of examinations or any course of study except in accordance with a proposal of the Faculty or Faculties concerned and unless a draft of such Ordinance has been proposed by the Academic Council; or
- (c) effecting the number, qualifications and emoluments of teachers of the University or the income or expenditure of the University, unless a draft of the same has been approved by the State Government.

1. Ins. by U.P. Act No. 19 of 1987.

(4) The Executive Council shall not have power to amend any draft proposed by the Academic Council under sub-section (3) but may reject it or return to the Academic Council for reconsideration either in whole or in part together with any amendments which the Executive Council may suggest.

(5) All Ordinances made by the Executive Council shall have effect from such date as it may direct and shall be submitted as soon as may be to the Chancellor.

(6) The Chancellor may, at any time signify to the Executive Council his disallowance of such Ordinances other than those referred to in clause (c) of the proviso to sub-section (3) and from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinances shall become void.

(7) The Chancellor may direct that the operation of any Ordinance other than those referred to in clause (c) of the proviso to sub-section (3) shall be suspended until he has an opportunity of exercising his power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order.

SYNOPSIS

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| 1. Extension of service—First statute of Veer Bahadur Singh Purvanchal University, Jaunpur, Statutes 15.23 and 15.24 | 2. L.L.B. Honours Course. |
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1. *Extension of service.*—First statute of Veer Bahadur Singh Purvanchal University, Jaunpur, Statutes 15.23 and 15.24—In case of superannuation of regular principal of the college, the petitioner was appointed as an officiating principal by virtue of his seniority. The retiral age of the teachers of the University and affiliated colleges was increased by the G.O. dated 4-2-2004 from 60 years to 62 years. It was further clarified by the G.O. dated 7-6-2004 that the teachers working on the session's benefit prior to issuance of G.O. dated 4-2-2004 shall not be given administrative post. Therefore, the present writ was moved with an allegation that the second G.O. is the violation of Article 14 of the Constitution of India. While dismissing the writ, it was held that the petitioner was not entitled the relief sought. *Dr. Radhey Shyam v. State of U.P. through its Secretary (Higher Education), Civil Secretariat, Lucknow and others*, (2006) 1 U.P.L.B.E.C. 428 (All.).

2. *L.L.B. Honours Course.*—Where in a certain case, the petitioners failed in some of the papers of L.L.B. of a particular semester, if they are not permitted to appear in these papers, they will suffer a great loss of their academic career. It was found that the ordinance promulgated by the University has not been found to be strictly followed for many years. It was held by the Court that the ordinance cannot be enforced for the petitioners, therefore the petitioners will be allowed to appear in the papers in which they failed in the particular semester. *Mayank Kumar Singh and 5 others v. University of Lucknow and others*, (2009) 2 U.P.L.B.E.C. 977 (All.)

53. *Regulations.*—(1) Subject to the provisions of this Act, the Statutes and the Ordinances, an authority or other body of the University may make Regulations—

- (a) laying down the procedure to be followed at its meeting and the number of members required to form the quorum;

- (b) providing for all matters which by this Act, the Statutes or the Ordinances are to be provided by Regulations; and
- (c) providing for any other matter solely concerning such authority or body and not provided for by this Act, the Statutes and the Ordinances.

(2) The Regulations made by any authority or other body of the University shall provide for the giving of notice to its members of the dates of meetings and the business to be transacted thereat and for the keeping of record of the proceedings of such meetings.

(3) The Executive Council may direct any authority or other body of the University other than the Court to cancel or to amend in such form as may be specified in the direction, any Regulation made by such authority or body and such authority or body shall thereupon cancel or amend the Regulation accordingly :

Provided that any authority or other body of the University, if dissatisfied with any such direction may appeal to the Chancellor who may after obtaining the views of the Executive Council pass such orders as he thinks fit.

(4) The Academic Council may subject to the provisions of the Ordinances, make Regulations providing for the course of study for any examination, degree or diploma of the University only after the Board of Faculty concerned has proposed a draft of the same.

(5) The Academic Council shall not have power to amend or reject any draft proposed by the Board of Faculty under sub-section (4), but may return it to the Board for further consideration together with its own-suggestions.

CHAPTER X

ANNUAL REPORTS AND ACCOUNTS

54. Annual Report.—(1) The Annual Report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court a month before its annual meeting and the Court shall consider it in its annual meeting.

(2) The Court may, by resolution make recommendations on such report and communicate the same to the Executive Council which may take such action thereon as it thinks fit.

55. Accounts and audit.—(1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council and all money accruing to or received by the University from whatever source and all amounts disbursed or paid shall be entered in the accounts maintained by the University.

(2) A copy of the annual accounts and the balance-sheet shall be submitted to the State Government which shall cause the same to be audited.

(3) The annual accounts and the balance-sheet audited shall be printed and copies thereof shall, together with copies of the audit report be submitted by the Executive Council, to the Court and the State Government.

(4) The Executive Council shall also prepare, before such date as may be prescribed, the budget for the ensuring year.

(5) Every item of new expenditure above such amount as may be prescribed which it is proposed to include in the budget shall be referred by the Executive Council to the Finance Committee which may make recommendations thereon.

(6) The Executive Council shall, after considering the recommendations if any, of the Finance Committee approve the budget finally.

(7) The annual accounts, the balance-sheet and the audit report shall be considered by the Court at its annual meeting and the Court may, by resolution, make recommendations with reference thereto and communicate the same to the Executive Council.

(8) It shall not be lawful for the Vice-Chancellor or the Executive Council to incur any expenditure—

- (a) either not sanctioned in the budget, or in the case of funds granted to the University, subsequent to the sanction of the budget, by the State Government or the Government of India or the University Grants Commission or any international organisation or Foundation, save in accordance with the terms of such grant :

Provided that notwithstanding anything in sub-section (7) of Section 13, the Vice-Chancellor may, in the case of fire, flood, excessive rainfall or other sudden or, unforeseen circumstances, incur non-recurring expenditure not exceeding rupees five thousand not sanctioned in the budget and he shall immediately inform the State Government in respect of all such expenditure.

- (b) on any litigation in opposition to ¹[any order of the Chancellor or of the State Government purporting to be made under this Act.]

²[55-A. Surcharge.—(1) An officer specified in any of the clauses (c) to (i) of Section 9 shall be liable to surcharge for the loss, waste or misapplication of any money or property of the University, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct.

(2) The procedure of surcharge and the manner of recovery of the amount involved in such loss, waste or misapplication shall be such as may be prescribed.]

CHAPTER XI

REGULATION OF DEGREE COLLEGES

56. Definitions.—In this Chapter, unless the context otherwise requires—

- (a) 'property', in relation to an affiliated or associated college, includes all property, movable and immovable, belonging to or endowed wholly or partly for the benefit of the college, including lands, buildings (including hostels), works, library, laboratory, instruments, equipment, furniture, stationery, stores, automobiles

1. Subs. by U.P. Act No. 12 of 1978.

2. Ins. by U.P. Act No. 12 of 1978.

and other vehicles, if any, and other marts pertaining to the college, cash on hand, cash at bank, investments, and book debts and all other rights and interests arising out of such property as may be in the ownership, possession, power or control of the college and all books of account, registers, and all other documents of whatever nature relating thereto, and shall also be deemed to include all subsisting borrowings, liabilities and obligations of whatever kind of the college;

- (b) 'salary' means the aggregate of the emoluments including dearness or any other allowance for the time being payable to a teacher or other employee after making permissible deductions.

57. Power of the State Government to issue notice.—If the State Government receives information in respect of any affiliated or associated college (other than a college maintained exclusively by the State Government or a local authority)—

- (i) that its Management has persistently committed wilful default in paying the salary of the teachers or other employees of the college by the twentieth day of the month next following the month in respect of which or any part of which it is payable; or
- (ii) that its Management has failed to appoint teaching staff possessing such qualifications as are necessary for the purpose of ensuring the maintenance of academic standards in relation to the college or has appointed or retained in service any teacher in contravention of the Statute or Ordinances¹ [or has failed to comply with the orders of the Director of Education (Higher Education) made on the basis of the recommendation of the Uttar Pradesh Higher Education Services Commission under the Uttar Pradesh Higher Education Services Commission Act, 1980]; or
- (iii) that any dispute with respect to the right claimed by different person to be lawful office-bearers of its Management has affected the smooth and orderly administration of the college; or
- (iv) that its Management has persistently failed to provide the college with such adequate and proper accommodations, library, furniture, stationery, laboratory, equipment, and other facilities, as are necessary for efficient administration of the college; or
- (v) that its Management has substantially diverted, misapplied or misappropriated the property of the college to the detriment of the college;

it may call upon the Management to show cause why an order under Section 56 should not be made :

Provided that where it is in dispute as to who are the office-bearers of the Management, such notice shall be issued to all persons claiming to be so.

1. Ins. by U.P. Act No. 9 of 1978 (w.e.f. 19-9-1977).

58. Authorised Controller.—(1) If the State Government after considering the explanation, if any, submitted by the Management under Section 57 is satisfied that any ground mentioned in that section exists, it may, by order, authorise any person (hereinafter referred to as the Authorised Controller) to take over, for such period not exceeding two years as may be specified, the Management of the college and its property to the exclusion of the Management and whenever the Authorised Controller so takes over the Management, he shall, subject only to such restrictions as State Government may impose, have in relation to the Management of the college and its property all such powers and authority as the Management would have if the college and its property were not taken over under this sub-section :

Provided that if the State Government is of opinion that it is expedient so to do in order to continue to secure the proper Management of the colleges and its property, it may, from time to time, extend the operation of the order for such period, not exceeding one year at a time, as it may specify, so however, that the total period of operation of the order, including the period specified in the initial order under this sub-section does not exceed ¹[five years] :

²[Provided further that if at the expiration of the said period of five years, there is no lawfully constituted Management of the college the Authorised Controller shall continue to function as such, until the State Government is satisfied that the Management has been lawfully constituted :

Provided also that the State Government may, at any time, revoke an order made under this sub-section.]

(2) Where the State Government while issuing a notice under Section 57 is of opinion, for reasons to be recorded, that immediate action is necessary in the interest of the college, it may suspend the Management, which shall thereupon cease to function, and make such arrangement as it thinks proper for managing the affairs of the college and its property till further proceedings are completed :

Provided that no such order shall remain in force for more than six months from the date of actual taking over the Management in pursuance of such order :

Provided further that in computation of the said period of six months, the time during which the operation of the order was suspended by any order of the High Court passed in exercise of jurisdiction under Article 226 of the Constitution or any period during which the Management failed to show cause in pursuance of the notice under Section 57, shall be excluded.

(3) Nothing in sub-section (1), shall be construed to confer on the Authorised Controller the power to transfer any immovable property belonging to college (except by way of letting from month to month in the ordinary course of management or to create any charge thereon) except as a condition of receipt of any grant-in-aid of the college from the State Government or the Government of India.

1. Subs. by U.P. Act No. 4 of 1983 for the word "four years" (w.e.f. 25-6-1982).

2. Subs. by U.P. Act No. 4 of 1983 (w.e.f. 25-6-1982).

(4) Any order made under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument relating to the Management and control of the college or its property :

Provided that the property of the college and any income therefrom shall continue to be applied for the purposes of the college as provided in any such instrument.

(5) The Director of Education (Higher Education) may give to the Authorised Controller such directions as he may deem necessary for the proper management of the college or its property, and the Authorised Controller shall carry out those directions.

59. Clause 58 not applied to minority colleges.—Nothing contained in Section 58, shall apply to a college established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India.

60. Duty to deliver possession to the Authorised Controller.—(1) Where an order has been passed under Section 58 in respect of a college, every person in whose possession or custody or under whose control any property of the college may be, shall deliver the property to the Authorised Controller forthwith.

(2) Any person who on the date of such order has in his possession or under his control any books or other documents relating to the college or to its property shall be liable to account for the said books and other documents to the Authorised Controller and shall deliver them up to him or to such person as the Authorised Controller may specify in this behalf.

(3) The Authorised Controller may apply to Collector for delivery of possession and control over the college or its property of any part thereof, and the Collector may take all necessary steps for securing possession to the Authorised Controller of such college or property, and in particular, may use of force to be used such force as may be necessary.

COMMENT

Alternative Remedy—Constitution of India, 1950—Article 226—Scope of—U.P. State University Act, 1973—Section 60.—Where statutory remedy or representation before the Chancellor is available against the order of Vice-Chancellor, plea of violation of principles of natural justice was raised, in such an event, it was held that an alternative remedy is an important consideration for exercise of writ jurisdiction. It should be ignored only in exceptional cases. Hence, the petition was dismissed only on the ground of an alternative remedy. *Committee of Management, Shri Krishna Geeta Rashtriya Degree College, Azamgarh v. Vice-Chancellor Veer Bahadur Singh Purvanchal University, Jaunpur and others*, (2002) 2 U.P.L.B.E.C. 1423 (All.)

¹[CHAPTER XI-A

PAYMENT OF SALARY TO TEACHERS AND OTHER EMPLOYEES OF DEGREE COLLEGES

60-A. Definitions.—In this Chapter, unless the context otherwise requires—

- (i) "College" means any college affiliated to or recognised by any University in accordance with the provision of this Act or the

¹: Chapter XI-A, ins. by U.P. Act No. 21 of 1976.

Statutes made thereunder and for the time being receiving maintenance grant from the State Government (but does not include a college maintained exclusively by the State Government or a ¹[Nagar Mahapalika];

- (ii) "*Deputy Director*" means the Regional Deputy Director of Education and includes any other officer authorised by the State Government to perform all or any of the functions of the Deputy Director under this Chapter;
- (iii) "*employee*", in relation to a college, means a non-teaching employee of such college :
 - (a) in respect of whose employment maintenance grant was being paid by the State Government during the financial year 1974-75; or
 - (b) who was appointed to a post with the permission of the Director of Education (Higher Education);
- (iv) "*maintenance grant*" means such grant-in-aid of a college as the State Government by general or special order in that behalf directs to be treated as maintenance grant appropriate to the level of that college;
- (v) "*salary*" shall have the meaning assigned to it, in clause (b) of Section 56;
- (vi) "*teacher*", in relation to a college, means a teacher in respect of whose employment maintenance grant was being paid by the State Government during the financial year 1974-75, or who is employed with the approval of the Vice-Chancellor of the University concerned—
 - (a) to a post created, before April 1, 1975, with the permission of the Vice-Chancellor concerned; or
 - (b) to a post created, after March 31, 1975, with the permission of the Director of Education (Higher Education).

COMMENT

Payment of Salary.—A person is entitled to salary only when it is established that he is a teacher. Appointment of the person is not proved, hence he is not entitled to salary under the Act. *Shesh Nath Tripathi v. Committee of Management and others*, (2000) 2 U.P.L.B.E.C. 1453 (All.).

60-B. Payment of salary within time and without unauthorised deductions.—(1) Notwithstanding any contract to the contrary, the salary of a teacher or other employee of any college in respect of any period after the 31st day of March, 1975, shall be paid to him before the expiry of the 20th day or such earlier day as the State Government may, by general or the month in behalf, appoint, of the month next following special order in that respect of which or any part of which it is payable.

1. Subs. by U.P. Act No. 15 of 1980 for words "local authority" (w.e.f. 26-9-1979).

(2) The salary shall be paid without deductions of any kind except those authorised by this Act, the Statutes or the Ordinances, or by any other law for the time being in force.

60-C. Power to inspect.—(1) The Deputy Director may at any time, for the purposes of this Chapter, inspect or cause to be inspected any college or call for such information and records (including registers, books of account and vouchers) from its Management with regard to the payment of salaries to its teachers or employees or give to its Management any direction for the observance of such canons of financial propriety (including any direction for retrenchment of any teacher or employee or for prohibition of any wasteful expenditure) as he thinks fit.

(2) Every direction for retrenchment under sub-section (1) shall be issued after obtaining the prior approval of the Director of Education (Higher Education) and shall specify a future date on which such retrenchment shall become operative.

(3) Where any direction for retrenchment is issued in accordance with sub-sections (1) and (2), the teacher or the employee concerned shall, with effect from the date specified in such direction, cease to be a teacher or employee of the college for the purposes of the maintenance grant payable under this Chapter.

60-CC. Supernumerary post of teachers.—The Vice-Chancellor may with the prior approval of the State Government create any supernumerary post with a view to enabling a teacher who is for the time being holding responsible position of a national importance in India or abroad in educational administration or other similar assignment to retain his lien and seniority as such teacher and also to continue to earn increments in his pay scale during the period of his assignment and to contribute towards provident fund and earn retirement benefits, if any, in accordance with the Statutes :

Provided that no salary shall be payable to such teacher by the college for the period of such assignment.]

60-D. Procedure for payment of salary in case of certain colleges.—(1) The Management of every college shall for the purposes of disbursement of salaries to its teachers and employees open in a scheduled bank or a co-operative bank or post office, a separate account (hereinafter in this Chapter called 'Salary Payment Account') to be operated jointly by a representative of the Management and by the Deputy Director or such other officer as may be authorised by the Deputy Director in that behalf :

Provided that after the Salary Payment Account is opened, the Deputy Director may, if he is, subject to any rules made under Section 50-F1 satisfied that it is expedient in the public interest so to do, instruct the bank that the account shall be operated by the representative of the Management alone, and may at any time revoke such instruction :

Provided further that in the case referred to in sub-section (3), or where in any other case after giving to the Management an opportunity of showing cause,

the Deputy Director is of opinion that it is necessary or expedient so to do, the Deputy Director may instruct the bank that the Salary Payment Account shall be operated only by himself, or by such other officer as may be authorised by him in that behalf and may at any time revoke such instruction.

(2) The State Government may, from time to time, require by general or special order that the Management of a college shall deposit in the Salary Payment Account, such portion of the amount received from students as fees and also such portion, if any, of the income received from any property, movable or immovable belonging to or endowed wholly or partly for the benefit of the college, and by such date, as may be specified in that order, and thereupon, the Management shall be bound to comply with such direction.

(3) Where the Deputy Director is of opinion that the Management has failed to deposit the fees in accordance with the provisions of sub-section (2) or the orders issued thereunder, the Deputy Director may, by order, prohibit the Management from realising any fees from the students and thereupon, the Deputy Director may realise the fees (either through the teachers of the college or in such other manner as he thinks fit) directly from the students and shall deposit the fees so recovered in the Salary Payment Account.

(4) The State Government shall also pay into the Salary Payment Account such amount as maintenance grant, which, after taking into consideration the amounts deposited under sub-sections (2) and (3), is necessary for making payment in accordance with sub-section (5).

(5) No money credited to the Salary Payment Account shall be applied for any purpose except the following, namely—

- (a) for payment of salary to the teachers and other employees of the college falling due for any period after March 31, 1975;
- (b) for crediting the Management's contribution, if any to the provident fund accounts of teachers and employees of the college concerned.

(6) The salary of a teacher or employees shall be paid by transfer of the amount from the Salary Payment Account to his account, if any, in the same bank, or if he has no account in that bank, then by cheque.

60-E. Liability in respect of Salary.—¹[(1) The State Government shall be liable for payment of salaries against such posts of teachers and employees of every such college that was taken in grant-in-aid list by the State Government on or after March 31, 1975 :

Provided firstly that the Director of Higher Education or an officer authorized by him to sanction grant-in-aid to the college has paid the salary against such posts within one year after the college was taken in grant-in-aid list :

Provided secondly that the posts in a grant-in-aid college which were created after the college was taken in grant-in-aid list with the permission of the Director, Higher Education or by the State Government and were duly filled with the approval of the Director of Higher Education or an officer authorized by him after March 31, 1975 :

1. Subs. by U.P. Act No. 1 of 2004 (w.e.f. 11-7-2003).

Provided thirdly that the State Government shall not be liable for payment of salaries of teachers and employees of a college where permission to create posts was granted by the Director of Higher Education or by the State Government on the condition that the Management of the respective college shall bear the liability of payment of salary against the posts so created :

Provided fourthly that the colleges in which affiliation for certain number of subjects of undergraduate and post-graduate courses has been accorded by the Chancellor under self-financing scheme, the State Government shall not be liable to pay salary of teachers and employees appointed in connection with imparting instruction in such course.]

(2) The State Government may recover any amount in respect of which any liability is incurred by it under sub-section (1) by attachment of the income from the property belonging to or vested in the college as if that amount were an arrear of land revenue due from such college.

(3) Nothing in this section shall be deemed to derogate from the liability of the college for any such dues to the teacher or employee.

60-F. Punishment, penalties and procedure.—(1) If any default is committed in complying with any direction under Section 60-C, or with the provisions of Section 60-B or Section 60-D, every person who at the time the default was committed was manager or any other person vested with the authority to manage and conduct the affairs of the college shall, unless he proves that the default was committed without his knowledge or that he exercised all due diligence to prevent the commission of the default, be punishable, in the case of a default in complying with the provisions of Section 60-B with fine which may extend to one thousand rupees, and in the case of any other default with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) No Court shall take cognizance of any offence punishable under this section except with the previous sanction of the Deputy Director.

(3) Every offence under this section shall be cognizable, but no police officer below the rank of a Deputy Superintendent shall investigate any such offence without the order of a Magistrate of the first class or make arrest therefor without a warrant.

(4) No Court below the rank of a Magistrate of the first class shall take cognizance of an offence under this section.

60-G. Finality of orders.—No order made or direction given by the State Government, the Director of Education (Higher Education), the Deputy Director or other officer in exercise of any power conferred by or under this Chapter shall be called in question in any Court.

60-H. Rule-making power.—(1) The State Government may by notification in the Gazette, make rules for carrying out the purposes of this Chapter.

(2) All rules made under this Chapter shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session for a total period of thirty days comprised in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette, subject to such

modifications or annulments as the two Houses of Legislature may during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.]

CHAPTER XII

PENALITIES AND PROCEDURE

61. Penalties.—(1) Whoever contravenes the provisions of Section 46 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or both.

(2) Any person who—

- (a) having in his possession, custody or control any property of a college in respect of which an order has been made under Section 58 wrongfully withholds such property from the Authorised Controller appointed under that section or from any person authorised by him in that behalf; or
- (b) wrongfully obtains possession of any property of such college; or
- (c) wilfully withholds or fails to furnish the Authorised Controller or any person specified by him as required by sub-section (2) of Section 60 any books or other documents which may be in his possession, custody or control; or
- (d) wilfully obstructs any person from duty carrying out all or any of the provisions of this Act;

shall, on conviction be punished with imprisonment for a term which may extend to one year, or with fine or with both :

Provided that the Court trying any offence under clause (a) or clause (b) of this sub-section may at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the Court any property wrongfully withheld or wrongfully obtained or any books or other documents wilfully withheld.

62. Cognizance by Courts.—No Court shall take cognizance of an offence punishable under Section 61 except with the previous sanction of the Director of Education (Higher Education).

63. Offences by registered societies.—(1) If the person committing the offence under Section 61 is a society registered under the Societies Registration Act, 1860, the society as well as every person in charge of and responsible to the society for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a registered society and it is

proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any neglect on the part of any member of the society, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER XIII MISCELLANEOUS

64. Manner of appointment of officers and members of authorities.—(1) Except as expressly provided by this Act or the Statutes, officers of the University and members of authorities of the University shall so far as may be, be chosen by methods other than election.

(2) Where a provision is made in this Act or the Statutes for any appointment by rotation or according to seniority or other qualifications the manner of rotation and determination of seniority and other qualifications shall be such as may be prescribed.

(3) Where a provision for an election is made in this Act such election shall be conducted according to the system of proportional representation by means of the single transferable vote, and where provision for an election is made in the Statutes it be held in such manner as the Statutes may provide.

(4) Except as expressly provided by this Act, no officer or employees of the University shall be eligible to seek election to any authority or other body of the University.

65. Filling of casual vacancies.—(1) Any casual vacancy among the members, other than *ex officio* members, of any authority or body of the University shall be filled in the same manner in which the members whose vacancy is to be filled up was chosen, and the person filling the vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

(2) A person, who is a member of any authority of the University as a representative of another body, whether of the University or outside, shall retain his seat on such authority for so long as he continues to be the representative of such body¹[* * *].

66. Proceeding not to be invalidated by vacancies, etc.—No act or proceeding, of any authority or body or committee of the University shall be invalid merely by reason of—

- (a) any vacancy or defect in the constitution thereof, or
- (b) some person having taken part in the proceedings who was not entitled to do so, or
- (c) any defect in the election, nomination or appointment of a person acting as member thereof, or
- (d) any irregularity in its procedure not affecting the merits of the case.

1. The words "and thereafter till his successor is duly appointed" omitted by U.P. Act No. 9 of 1998 (w.e.f. 19-9-1997).

¹[66-A. The State Government may issue such directions from time to time = a University on policy matters, not inconsistent with the provisions of this Act as it may deem necessary such direction shall be complied with by the University.]

67. Removal from membership of the University.—The Court may, by a two-third majority of the members present and voting remove any person from membership of any authority or other body of the University upon the ground that such person has been convicted of an offence which, in the opinion of the Court, is an offence involving moral turpitude or upon the ground that he has been guilty of scandalous conduct or had behaved in a manner unbecoming of a person any degree, or certificate conferred or granted by the University.

68. Reference to the Chancellor.—If any question arises whether any person has been duly elected or appointed as, or is entitled to be, member of any authority or other body of the University, or whether any decision of any authority or officer of the University ²{including any question as to the validity of a Statute, Ordinance or Regulation, not being a Statute or Ordinance made or approved by the State Government or by the Chancellor} is in conformity with this Act or the Statutes or the Ordinance made thereunder, the matter shall be referred to the Chancellor and the decision of the Chancellor thereon shall be final :

Provided that no reference under this section shall be made—

- (a) more than three months after the date when the question could have been raised for the first time;
- (b) by any person other than an authority or officer of the University or a person aggrieved :

Provided further that the Chancellor may in exceptional circumstances—

- (a) act *suo motu* or entertain a reference after the expiry of the period mentioned in the preceding proviso;
- (b) where the matter referred relates to a dispute about the election, and the eligibility of the person so elected is in doubt, pass such orders of stay as he thinks just and expedient;
- (c) ³[+ * +]

⁴[68-A. Power of Vice-Chancellor to enforce his order against Management.—(1) Where a decision of the Management of an affiliated or associated college to dismiss, remove or to reduce a teacher in rank or to punish him in any other manner or to terminate his services, has not been approved by the Vice-Chancellor or where an order of suspension of such teacher has been stayed, revoked or modified by the Vice-Chancellor in accordance with the provisions of this Act or of an Act repealed by Section 74, and the Management has committed default in paying the salary of such teacher which became due to him in consequence of the Vice-Chancellor's order, the Vice-Chancellor may

1. Ins. by U.P. Act No. 1 of 2004 (w.e.f. 21-1-2003).

2. Ins. by U.P. Act No. 21 of 1975.

3. Omitted by U.P. Act No. 5 of 1977.

4. Ins. by U.P. Act No. 5 of 1977.

pass an order, requiring the management to pay the amount of salary as may be specified in the order and during the period of suspension, may also require the management to pay the suspension allowance at the rate of one-half of the salary payable, if the said amount has not been paid.

(2) In any such case as is referred to in sub-section (1), the Vice-Chancellor may also order reinstatement of the teacher concerned subject to such terms and the conditions as he thinks fit.

(3) The amount of salary or suspension allowance required to be paid under an order of the Vice-Chancellor under sub-section (1) shall on a certificate issued by him to the effect, be recoverable by the Collector as arrears of land revenue.

(4) Every order of the Vice-Chancellor under sub-section (2) shall be executable by the lowest Civil Court having territorial jurisdiction, as if it were a decree of that Court.

(5) No suit shall lie against any management or teacher in respect of any matter for which a relief can be granted by the Vice-Chancellor under this section.]

¹[69. Bar of suit.—No suit or other legal proceedings shall lie against the State Government or the Director of Education (Higher Education) or the Deputy Director (as defined in Section 60-A) or the Authorised Controller or the University or any officer, authority or body thereof in respect of anything done or purported or intended to be done in pursuance of the Act or the rules or the Statutes or the Ordinances made thereunder.]

70. Mode of proof of University record.—(1) A copy of any receipt, application, notice, order, proceeding, or resolution of any authority or committee of the University or other documents in possession of the University or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceedings, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein recorded where the original thereof would, if produced, have been admissible in evidence.

(2) No officer or servant of the University shall in any proceeding to which the University is not a party, be required to produce any document, register or other record of the University the contents of which can be proved under sub-section (1) but a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the Court made for special cause.

CHAPTER XIV

TRANSITORY PROVISION

71. Continuation of existing Officers of the University.—Subject to the provisions of this Act, every person holding office as an officer of an existing University on the date immediately before the commencement of this Act shall continue to hold office on the same terms and conditions until the expiration of his term of office.

1. Subs. by U.P. Act No. 21 of 1973.

72. Constitution of authorities.—¹[(1) Every authority of an existing University shall, as soon as may be after the commencement of this Act, be constituted in accordance with the provisions of this Act, and every person holding office as member of such authority immediately before the commencement of this Act shall, on the date of such commencement, cease to be such member.]

(2) Until any authority of the University is constituted under sub-section (1), the State Government may, by order direct from time to time by whom and in what manner the powers, duties and functions exercisable or dischargeable under this Act by any authority of University shall be exercised or discharged :

Provided that no such direction shall be issued after ²[December 31, 1981].

(3) The Administrative Committees and the Academic Committees constituted, in pursuance of sub-section (2) of Section 67 of the Uttar Pradesh State Universities Ordinance, 1973, shall, on 15th September, 1973, stand dissolved except as respect things done or omitted to be done by such Committees before that date, but nothing in this sub-section shall be deemed to preclude the State Government from taking, as from that date, such action under sub-section (2) as it thinks fit.

³[72-A. Transitory provisions regarding Kashi Vidyapith.—Notwithstanding anything contained in this Act—

- (a) every person holding office as an officer (other than the Chancellor) of the Kashi Vidyapith on the date immediately before its establishment as a University shall continue to hold office as such on the same terms and conditions except as respect tenure as he held on the said date until fresh appointments are made under clause (b);
- (b) as soon as may be after the commencement of this section, the State Government may appoint interim officers of the said University (other than the Chancellor) and shall constitute interim authorities of the said University in such manner as it thinks fit, upon which the corresponding officers referred to in clause (a) shall cease to hold office and the corresponding authorities, shall stand dissolved forthwith;
- ⁴[(c) the officers appointed and the members of the authorities constituted under clause (b) shall hold office up to ⁵[December 31, 1981] or until the appointment of the officers or the constitution of the authorities in accordance with clause (d) whichever be earlier;
- (d) the State Government shall take steps for the appointment of officers and constitution of authorities of the said University in accordance with the provisions of this Act, so that the same may be completed before the expiry of the respective terms of the interim officers and members under clause (c).]

1. Subs. by U.P. Act No. 21 of 1975.

2. Subs. by U.P. Act No. 15 of 1980 (w.e.f. 1-1-1979).

3. Ins. by U.P. Act No. 29 of 1974.

4. Subs. by U.P. Act No. 12 of 1978.

5. Subs. by U.P. Act No. 15 of 1980 (w.e.f. 1-1-1979).

¹[72-B. Transitory provision on change of name of Garhwal University.—With effect from April 25, 1989 any reference to the University of Garhwal in this Act or any rules, statutes, ordinances, statutory instruments, or any other law for the time being in force or in any documents or proceedings shall be construed as a reference to the Hemvati Nandan Bahuguna Garhwa University.]

²[72-C. Transitory provisions on change of name of University of Meerut.—With effect from January 17, 1994 any reference to the University of Meerut in this Act, or any Rules, Statutes, Ordinances, Statutory Instruments or any other law for the time being in force or in any document or proceedings shall be construed as a reference to the Chaudhary Charan Singh University, Meerut.]

³[72-D. Transitory provisions on the change of name of the University of Avadh.—⁴[(1) With effect from June 18, 1994 any reference to the University of Avadh in this Act or any Rules, Statutes, Ordinances, Statutory Instruments or any other law for the time being in force or in any document or proceedings shall be construed as a reference to the Dr. Ram Manohar Lohia University, Faizabad.]

⁵[(2) With effect from July, 11, 1995 any reference to the University of Avadh, or to the Doctor Ram Manohar Lohia University, Faizabad, in this Act or any Rules, Statutes, Ordinance, Statutory Instruments or any other law for the time being in force or in any document or proceedings shall be construed as a reference to the Doctor Ram Manohar Lohia Avadh University, Faizabad.]

⁶[72-E. Transitory provision on the name of the Kashi Vidyapith.—With effect from July 11, 1995 any reference to the Kashi Vidyapith in this Act or any Rules, Statutes, Ordinance, Statutory Instruments or any other law for the time being in force or in any document or proceedings shall be construed as a reference to the Mahatma Gandhi Kashi Vidyapith, Varanasi.]

⁷[72-F. Transitory provision on the name of the Universities of Agra and Kanpur.—⁸[(1) With effect from September 24, 1995 any reference to the University of Agra and Kanpur University in this Act or any Rules, Statutes, Ordinance, Statutory Instruments or any other law for the time being in force in any document or proceedings shall be construed as a reference to Doctor Bhimrao Ambedkar University, Agra and Shri Shahu Ji Maharaj University, Kanpur respectively.]

⁹[(2) With effect from the date of commencement of the Uttar Pradesh State Universities (Amendment) Act, 1997, any reference to the Kanpur University, or to Shri Shahu Ji Maharaj University, Kanpur in this Act or any Rules, Statutes, Ordinance, Statutory Instruments or any other law for the time

1. Ins. by U.P. Act No. 26 of 1989 (w.e.f. 24-4-1989).

2. Ins. by U.P. Act No. 5 of 1994 (w.e.f. 17-1-1994).

3. Ins. by U.P. Act No. 20 of 1994 (w.e.f. 18-6-1994).

4. Renumbered by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

5. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

6. Ins. by President's Act No. 4 of 1996 (w.e.f. 11-7-1995).

7. Ins. by President's Act No. 4 of 1996 (w.e.f. 23-9-1995).

8. Renumbered by U.P. Act No. 12 of 1997.

9. Ins. by U.P. Act No. 12 of 1997.

being in force or in any document or proceedings shall be construed as a reference to Chhatrapati Shahu Ji Maharaj University, Kanpur.]

¹[72-G. Transitory provisions on the change of names of University of Gorakhpur and University of Rohilkhand.—With effect from the date of the commencement of the Uttar Pradesh State Universities (Second Amendment) Act, 1997 any reference to the University of Gorakhpur and the University of Rohilkhand in this Act, or any Rules, Statutes, Ordinances, Statutory Instruments, or any other law for the time being in force or in any document or proceedings shall be construed as a reference to Deen Dayal Upadhyaya, Gorakhpur University, Gorakhpur and Mahatma Jyotiba Phule Rohilkhand University, Bareilly respectively.]

²[72-H. Transitory provision of change of name of the Purvanchal University.—With effect from the date of commencement of the Uttar Pradesh State Universities (Amendment) Act, 1999 any reference to the Purvanchal University in this Act or any Rules, Statutes, Ordinances, Statutory Instruments, or any other law for the time being in force or in any document or proceeding shall be construed as a reference to Vir Bahadur Singh Purvanchal University, Jaunpur.]

³[72-I. Special provisions with respect to certain students of Vir Bahadur Singh Purvanchal University, Jaunpur.—Every person residing within the area of the Mahatma Gandhi Kashi Vidyapith, Varanasi, who was permitted by the Vir Bahadur Singh Purvanchal University, Jaunpur to appear in Graduate Part-I or Post Graduate Part-I Examination of 2008 from the Examination Centre of District-Chandauli, Mirzapur, Sant Ravidas Nagar, Sonbhadra, Varanasi and Ballia and who, on the result of the examination, has been declared successful, shall be permitted by the Vir Bahadur Singh Purvanchal University to appear in the Graduate Part-II and Part-III examination or the Post Graduation Part-II examination, as the case may be, of the said University from the examination centres of the above districts during the academic years 2008-2009 and 2009-2010 and on the results of such an examination the degree may be conferred by that very University, and such an examination shall be deemed to be valid.]

72-J. Special Provisions with respect to certain students of Chhatrapati Shahu Ji Maharaj University, Kanpur.—Every person residing within the area of the Lucknow University, Lucknow, who was permitted by the Chhatrapati Shahu Ji Maharaj University, Kanpur to appear in Graduate Part-I or Post Graduate Part-I Examination of 2008 from the Examination Centre of District Lucknow and who, on the result of the examination, has been declared successful, shall be permitted by the Chhatrapati Shahu Ji Maharaj University, Kanpur to appear in the Graduate Part-II and Part-III examination or the Post Graduation Part-II examination, as the case may be, of the said University from the examination centres of district Lucknow during the academic years 2008-2009 and 2009-2010 and on the results of such an examination the degree may be conferred by that very University, and such an examination shall be deemed to be valid.]

1. Ins. by U.P. Act No. 18 of 1997.

2. Ins. by U.P. Act No. 11 of 1999 (w.e.f. 8-1-1999).

3. Ins. by U.P. Act of 2009.

73. Power to remove difficulties.—(1) The State Government may, for the purpose of removing any difficulty, particularly in relation to the transition from the provisions of the enactments repealed by Section 74 to the provisions of this Act, by order published in the Official Gazette direct that the provisions of this Act, shall during such period as may be specified in the order, have effect subject to such adaptations whether by way of modification, addition or omission as it may deem to be necessary or expedient :

Provided that no such order shall be made ¹[after December 31, 1982].

(2) Every order made under sub-section (1) shall be laid before both the Houses of the State Legislature.

(3) No order under sub-section (1) shall be called in question in any Court on the ground that no difficulty as is referred to in sub-section (1) existed or required to be removed.

74. Repeal of certain enactments.—(1) The following enactments are hereby repealed, with effect from the respective dates on which this Act is brought into force in relation to the existing University concerned, namely—

- (a) the Lucknow University Act, 1920;
- (b) the Allahabad University Act, 1921;
- (c) the Agra University Act, 1926;
- (d) the Gorakhpur University Act, 1956;
- (e) the Varanaseya Sanskrit Vishwavidyalaya Act, 1956; and
- (f) the Kanpur and Meerut Universities Act, 1965.

²{(2) Notwithstanding such repeal—

- (a) all appointments made, orders issued, degrees or diplomas conferred or certificates issued, privileges granted or other things done (including registration of graduates) under any such enactment, shall be deemed to have been respectively made, issued, conferred, granted or done under the corresponding provisions of this Act, and except as otherwise provided by or under this Act continue in force unless and until they are superseded by any order made under this Act;
- (b) all proceedings of Selection Committee which took place before the commencement of this Act and all actions by the Management or by the Executive Council, as the case may be, in respect of the recommendation of such Selection Committees, where no orders of appointment on the basis thereof were passed before the commencement of this Act, shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement.]

1. Subs. by U.P. Act No. 25 of 1982 (w.e.f. 29-12-1981).

2. Subs. by U.P. Act No. 21 of 1975, and shall be deemed always to have been substituted.

(3) Notwithstanding anything in sub-sections (1) and (2), or in any other provisions of this Act—

- (a) ¹[* * *]
- (b) ²[* * *]
- (c) where any institution has applied for affiliation to the University of Agra in accordance with the provisions of the Agra University Act, 1926, before June 18, 1973 and such application was pending on the said date, and the place where the institution is situated lies under this Act outside area of the University of Agra, such application may be disposed of by the competent authorities of the University of Agra as if the institution would be affiliated to that University, and upon the grant of such application by the Chancellor, the institution would stand affiliated to the University within whose territorial jurisdiction as specified in Section 5, the institution would lie;
- (d) until fresh panels of experts are drawn up under sub-section (5) of Section 31, the Chancellor or the Vice-Chancellor, as the case may be, may nominate experts to a Selection Committee under that section from out of the panels in existence immediately before the commencement of this Act :
³[Provided that the provisions of Explanation I and II to the said sub-section (5) shall apply also to the panels of experts referred to in this clause and to nominations made from such panels under this clause];
- (e) until a Finance Officer is appointed in a University, the functions of the Finance Officer under this Act shall be performed by a Dean of Faculty nominated by the Chancellor in that behalf;
- (f) until rules are made under Section 17, any vacancy in a post of Registrar, Deputy Registrar or Assistant Registrar may be filled on a provisional basis by the Chancellor, in the case of the post of Registrar and by the Vice-Chancellor in the case of the post of Deputy Registrar or Assistant Registrar;
- ⁴(g) every student of the Kashi Naresh Government Degree College, Gyanpur, or the Government Degree College, Jakhni, situate in district Varanasi, or the Government Degree College, Rishikesh, situate in district Dehradun, who—
- (1) immediately before the commencement of Uttar Pradesh State Universities Ordinance, 1973, was studying for a degree of the University of Agra; or
 - (2) was admitted as a student of any of the said colleges during the academic year 1973-74 for a degree of the said University; or

1. Omitted by U.P. Act No. 29 of 1974.

2. Omitted by U.P. Act No. 5 of 1977.

3. Ins. by U.P. Act No. 21 of 1975, and shall be deemed always to have been inserted.

4. Ins. by U.P. Act No. 29 of 1974.

(3) is eligible to appear at any degree examination of the said University in the year 1974 or in the year 1975 ¹[or in the year 1976] as an ex-student;

shall be permitted to complete his course in accordance with, the syllabus of the University of Agra, and necessary arrangements for the instruction and examination of such students shall be made by the University of Agra and on the results of such examination, the degree may be conferred by that very University;

- (h) until the Faculties are constituted in the Universities referred to in sub-section (1) or sub-section (1-A) of Section 4, the Selection Committee referred to in clause (c), of sub-section (4) of Section 31 shall consist of the following members, namely—
- (1) the Head of the Management or a member of the Management nominated by him, who shall be the Chairman;
 - (2) one member of the Management nominated by the Management; and
 - (3) three experts to be nominated by the Vice-Chancellor;
- ²{(i) every person residing within the area of the University of Gorakhpur who was permitted by the Agra University to appear in B.A. Part I or M.A. Part I Examination of 1974 from the Kashi Naresh Government Degree College, Gyanpur, Varanasi Centre and who, on the result of the examination, has been declared successful, shall be permitted by the University of Agra to appear in the B.A. Part II or M.A. Part II Examination, as the case may be, of the said University from the Kashi Naresh Government Degree College, Gyanpur, Varanasi Centre, during the academic years 1974-75 and 1975-76 and on that results of such examination the degree may be conferred by that very University, and such examination shall be deemed to be valid;
- (j) any person residing within the area of the University of Allahabad or the University of Lucknow may be permitted by the University of Kanpur (hereinafter in this clause referred to as the said University) to appear in an examination referred to in clause (5) of Section 7, and on the result of such examination a degree may be conferred by the said University notwithstanding that such person was not residing within the area of the said University.]

75. Amendment of U.P. Act XXIV of 1965.—In Section 3 of the Uttar Pradesh Universities (Provisions regarding Conduct of Examinations) Act, 1965, for the words 'two months' the words 'six months' shall be substituted.

76. Repeal and Savings.—(1) The Uttar Pradesh State Universities Ordinance, 1973 (U.P. Ordinance 1 of 1973), is hereby repealed.

1. Ins. by U.P. Act No. 21 of 1975.

2. Ins. by U.P. Act No. 5 of 1977, and shall be deemed always to have been inserted.

(2) Notwithstanding any such repeal, anything done or any action taken under the said Ordinance shall, subject to the provisions of sub-section (3) of Section 72, be deemed to have been done or taken under this Act as if this Act had commenced on the 18th day of June, 1973.

¹[THE SCHEDULE

(See Section 5)

| <i>Serial No.</i> | <i>Name of the University</i> | <i>Areas within which the University shall exercise jurisdiction</i> |
|-------------------|--|--|
| 1 | 2 | 3 |
| 1. | The University of Lucknow | Lucknow District |
| 2. | Chaudhary Charan Singh University, Meerut | Districts of Bhagpat, Bulandshahar, Gautam Buddha Nagar, Ghaziabad, Meerut, Muzaffar Nagar and Saharanpur. |
| 3. | Chatrapati Shahu Ji Maharaj University, Kanpur | Districts of Allahabad, Auraiya, Etawah, Farrukhabad, Fatehpur, Hardoi, Kannauj, Kanpur Dehat, Kanpur Nagar, Kaushambhi, Lakhimpur Kheri, Sitapur, Rae Bareilly and Unnao. |
| 4. | Dean Dayal Upadhyaya Gorakhpur University, Gorakhpur | Districts of Basti, Deoria, Gorakhpur, Kushi Nagar, Maharajganj, Sant Kabir Nagar and Siddharth Nagar |
| 5. | Doctor Bhim Rao Ambedkar University, Agra | Districts of Agra, Aligarh, Etah, Firozabad, Hathras, Kansiram Nagar, Mainpuri and Mathura |
| 6. | Doctor Ram Manohar Lohia Avadh University, Faizabad | Districts of Ambedkar Nagar, Bahraich, Balrampur, Bara Banki, Faizabad, Gonda, Pratapgarh, Shrawasti and Sultanpur |
| 7. | Mahatma Jyotiba Phule Rohil Khand University, Bareilly | Districts of Budaun, Bareilly, Bijnor, Jyotiba Phule Nagar, Moradabad, Pilibhit, Rampur and Shahjahanpur |
| 8. | The University of Bundelkhand, Jhansi | Districts of Banda, Chitrakut, Hamirpur, Jalaun, Jhansi, Lalitpur and Mahoba |
| 9. | Vir Bahadur Singh Purvanchal University, Jaunpur | Districts of Azamgarh, Ghazipur, Jaunpur and Mau |
| 10. | Mahatma Gandhi Kashi Vidyapith, Varanasi | Districts of Chandauli, Mirzapur, Sant Ravidas Nagar, Sonbhadra, Varanasi and Ballia]. |
| ² [11. | The Uttar Pradesh Urdu, Arbi, Pharsi University at Lucknow | Whole of Uttar Pradesh in respect of education and research in Urdu, Arabic and Persian.] |

1. Subs. by U.P. Act No. 6 of 2009.

2. Ins. by U. P. Act No. 11 of 2010 (w.e.f. 1-11-2009).

THE UTTAR PRADESH STATE UNIVERSITIES (CENTRALISED) SERVICE RULES, 1975¹

In exercise of the powers conferred by sub-section (1) of Section 17 of the Uttar Pradesh State Universities Act, 1973, as re-enacted and amended by Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974, the Governor is pleased to make the following rules for the creation of a separate service of the Registrars, Deputy Registrars and Assistant Registrars, common to all the Universities to which the aforesaid Act applies, and for regulating the recruitment to and conditions of service of persons appointed to any such service.

PART I

PRELIMINARY

1. Short title, application and commencement.—(1) These rules may be called the Uttar Pradesh State Universities (Centralised) Service Rules, 1975.

(2) They shall apply to all the Universities to which the Uttar Pradesh State Universities Act, 1973 as re-enacted and amended by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974, is applicable.

(3) They shall come into force with effect from the date of publication in Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires :

- (a) "Act" means the Uttar Pradesh State Universities Act, 1973 as amended from time to time;
- (b) "Centralised Service" or "Service" means the Centralised Service created under Rule 3 of these rules;
- (c) "Citizen of India" means a person who is or is deemed to be a citizen of India under Part II of the Constitution;
- (d) "Commission" means the Uttar Pradesh Public Service Commission;
- (e) "Education Department" means Education Department of the Government;
- (f) "Government" or "State Government" means the Government of Uttar Pradesh;
- (g) "Secretary" means Secretary to Government in the Education Department;
- (h) "University" means a University to which the Uttar Pradesh State Universities Act, 1973 is applicable;
- (i) Words and expressions not defined in these rules, but used in the Act, shall have the meaning assigned to them in the Act.

1. Vide Notification No. 6884/XV-10-75-60(24)-74, dated 31 October, 1975. Published in U.P. Gazette, Extraordinary, dated 31-10-1975.

**PART II
CADRE AND STRENGTH**

3. Creation of Centralised Service.—With effect from the commencement of these rules, there shall be Centralised Service common to all the Universities, which shall consist of the following administrative posts, namely—

- (1) Registrars,
- (2) Deputy Registrars,
- (3) Assistant Registrars.

4. Scale of pay.—The scales of pay for the various categories of posts mentioned in Rule 3 shall be such as the Government may from time to time fix.

5. Strength.—(1) The strength of each category of posts mentioned in Rule 3 shall be such as the Government may from time to time fix.

(2) All the posts mentioned in Rule 3 existing in the Universities immediately before the commencement of these rules shall from the present permanent strength of the Centralised Service.

(3) Any of the existing posts under the Centralised Service or any such post which the State Government may create in future, shall not be abolished by any University without the prior approval of the State Government.

**PART III
RECRUITMENT**

6. Source of recruitment, absorption and termination of service of existing officers.—Subject to the provisions of Rule 7—

- (a) thirty-three per cent of the posts of Registrar, all posts of Deputy Registrar and thirty-three per cent of the posts of Assistant Registrar shall be filled in by promotion in the manner laid down in Rule 20; and
- (b) the remaining posts of Registrar and Assistant Registrar shall be filled in by direct recruitment in the manner laid down in Part V :

Provided that any fractions, obtained up to calculation of percentage in accordance with clause (a) shall be ignored :

Provided further that notwithstanding anything contained in this rule, the State Government may appoint any Government servant on deputation to any of the posts of the Centralised Service, for a period not exceeding three years.]

7. Absorption of the existing Officers.—(1) ²[The absorption or termination of services of the persons, serving on any of the posts mentioned in Rule 3, immediately before the commencement of the rules, shall be governed by the following provisions—

- (a) Persons serving on the administrative posts of Registrar, Deputy Registrar and Assistant Registrar and confirmed in any one of the said posts before May 14, 1973, shall unless they opt otherwise, be absorbed in the Centralised Service finally.

1. Subs. by Noti. No. 1506/XV-10-77, date 24-3-1977.

2. Subs. by Noti. No. 1793/XV-10-83-35(41)-1981-UPA-10-1973-Rule/1975-AM (4)-1982, dated 31-12-1983.

- (b) Other persons holding temporary or officiating appointments referred to in clause (a) above shall unless they opt otherwise, be absorbed provisionally, subject to such orders as the State Government may in each case pass under clause (c) below.
- (c) The services of persons who are provisionally absorbed under clause (b) but who are not found suitable for absorption finally may, by orders of the State Government (made on or before December 31, 1977) be terminated on payment of one month's salary as compensation as provided in sub-section (2) of Section 17 of the Act.
- (d) If in any case, orders of the State Government are not made to the contrary under clause (c), the persons concerned shall be deemed to have been finally absorbed in the Centralised Service.
- (e) Persons serving on any of the said posts immediately prior to the commencement of these rules shall be required to exercise their option for absorption in the Centralised Service. A person who fails to communicate to the Government in the Education Department his option within a period of three months from the date of commencement of these rules shall be deemed to have opted for such absorption.
- (f) The services of persons referred in clause (a) who opt against absorption, shall stand determined, with effect from the date of exercise of such option, and they shall, without prejudice to their claim to any provident fund admissible to them, be paid as compensation, the pay for the remaining period of their service in the University, or six months' pay in the case of persons whose total continuous service immediately before the commencement of these rules exceeded ten years, or three months' pay in the case of persons whose total continuous service as did not exceed ten years, whichever is less.
- (g) The amount of compensation payable under clause (c) or clause (f) shall be paid by the University in which the person concerned was employed immediately before the commencement of these rules.

(2) Where in the case of a person referred to in sub-section (2) of Section 17 of the Act and absorbed in the service, any particular condition of service prescribed by these rules works out, to be less advantageous to him than that applicable to him before such absorption, then, notwithstanding anything contained in these rules, the condition applicable to him before his absorption shall apply to such person.

Explanation.—Every person to whom these rules apply, shall be liable to transfer from one University to another.]

8. Reservation for Scheduled Castes, Scheduled Tribes etc.—Reservation for Scheduled Castes, Scheduled Tribes, Disabled Military personnel and dependents of freedom fighters shall be in accordance with the orders of the State Government as in force at the time of recruitment.

Note.—Copies of the orders of the State Government as in force at the time of commencement these rules will be found in Schedules 1, 2 and 3 annexed hereto.

PART IV
QUALIFICATIONS

9. Nationality.—A candidate for recruitment to any post in the Centralised Service must be—

- (a) a citizen of India; or
- (b) a Tibetan refugee who came over to India before 1st January, 1962 with the intention of permanently settling in India; or
- (c) a person of Indian origin who has migrated from Pakistan, Burma, Ceylon and East African countries of Kenya, Uganda and the United Republic of Tanzania (formerly Tanzanayika and Zanzibar with the intention of permanently settling down in India :

Provided that a candidate belonging to category (b) or (c) above must be a person in whose favour a certificate of eligibility has been issued by the State Government :

Provided further that a candidate belonging to category (b) will also be required to obtain a certificate of eligibility granted by the Deputy Inspector General of Police, Intelligence Branch, Uttar Pradesh :

Provided also that if a candidate belongs to category (c) above, no certificate of eligibility will be issued for a period of more than one year, and such a candidate may be retained in service after a period of one year, only if he has acquired Indian Citizenship.

Note.—A candidate in whose case a certificate of eligibility is necessary, but the same has neither been issued nor refused may be admitted to an examination or interview and he may also be provisionally appointed subject to the necessary certificate being obtained by him or issued in his favour.

¹[10. Age.—(1) A candidate for direct recruitment to the post of Registrar and Assistant Registrar must have attained the minimum age and must not have attained the maximum age, mentioned below, on the first day of January next following the year in which the recruitment is made :

| | Minimum | Maximum |
|---------------------|---------|---------|
| Registrar | — 35 | 45 |
| Assistant Registrar | — 30 | 45 |

Provided that the maximum age limit shall, in the case of candidates belonging to the Scheduled Castes, Scheduled Tribes and dependents of freedom fighters, be greater by five years :

Provided further that in respect of the posts already advertised by the commission, the age limit shall be as provided in Rule 10 before the enforcement of the Uttar Pradesh State Universities (Centralised) Service (Fifth Amendment) Rules, 1986.

(2) In the case of a person who has already rendered at least one year's service in any of the posts in the Centralised Service or in the University, the maximum age limit shall be greater to the extent he has rendered continuous service over the age limits mentioned in sub-rule (1).]

1. Subs. by Noti. No. 3584/XV-X-86-35 (25)-81, dated 30, July, 1986.

11. Character.—(1) The appointing authority shall satisfy itself that the character of a candidate for appointment to any post in the service is such as may render him suitable, in all respects, for employment in the Centralised Service.

(2) Every candidate for recruitment shall be required to submit certificate of character from the principal/head of the institution last attended and from two Gazetted Officers (not related to the candidate) in active service of the State or Union Government who are well acquainted with his private life but unconnected with his school, college or University.

(3) Persons dismissed by the Union Government or any State Government or by a Local Authority or any Government body or Corporation or Public Sector undertaking or a University shall be ineligible for appointment to the service. Any person who has been convicted by a Court of law for offences involving moral turpitude shall also be deemed ineligible.

12. Physical fitness.—No person shall be appointed to a post in the Centralised Service unless he is in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his official duties. Before a candidate is finally approved for appointment to a post in the Centralised Service he shall be required to appear before the State Medical Board for medical examination and be declared fit by it.

13. Qualifications.—A candidate to any post under the Centralised Services must possess the requisite qualifications as the Commissions may prescribe with the approval of the State Government.

14. Marital Status.—A male candidate who has more than one wife living and a female candidate who has married a man already having a wife living, shall not be eligible for recruitment to the Centralised Service :

Provided that the Governmor may, if satisfied that there exist special grounds doing so, exempt any person from the operation of this rule.

PART V

PROCEDURE FOR DIRECT RECRUITMENT

15. Communication of the number of vacancies.—Whenever a vacancy/vacancies to a post in the service requires/require to be filled by direct recruitment, the Secretary shall send intimation about it to the Commission intimating also the number of vacancy/vacancies. If any, reserved for candidates belonging to the Scheduled Castes, Scheduled Tribes and other categories under Rule 8.

16. Applications.—(1) Applications for recruitment to the Centralised Service shall be invited by the Commission and shall be made on the prescribed form which may be obtained from the Secretary to the Commission and shall be submitted within such time as may be specified.

(2) Candidates already employed in the Centralised Service shall submit their applications through proper channel to the Government who shall forward them to the Commission along with their periodical reports. Candidates employed elsewhere should submit their applications to the Commission through their employer.

17. Scrutiny of applications, interview, etc.—Recruitment to the posts of Assistant Registrar shall be made on the basis of a competitive examination. The Commission shall scrutinize the applications received and shall admit the eligible candidates to appear at the competitive examination. No candidate shall be admitted to the examination unless he holds a certificate of admission granted by the Commission.

(2) After the results of the written examination have been received and tabulated, the Commission, having regard to the necessity of securing due representation of Scheduled Castes, Scheduled Tribes, etc., shall summon for interview such number of candidates as, on the results of the written examination, have shown their suitability for being called for such interview. The marks awarded to each candidate at the interview shall be added to the marks obtained by him in the written examination.

(3) The Commission shall prepare a list of candidates arranged in order of merit and forward the same to the Secretary.

(4) The syllabus and the rules relating to the competitive examination will be prescribed from time to time by the Commission with the prior approval of the State Government.

(5) Recruitment to the posts of Registrar shall be made on the basis of interview alone. The Commission shall scrutinize the applications received by them and summon for interview such candidates as seem best qualified for appointment to the service. Thereafter the Commission shall prepare a list of candidates arranged in order of merit and forward the same to the Secretary.

18. Fees.—Candidates shall pay to the Commission and to the Medical Board such fees as may, from time to time, be prescribed by the State Government. No claim for the refund of fees shall be entertained.

19. Approved list.—On receipt of the list prepared by the Commission under Rule 17, the Secretary shall, subject to the provisions of Rule 8, have the names of the candidates entered in a list in the same order in which they have been recommended by the Commission for appointment.

PART VI

PROCEDURE FOR PROMOTION

¹[20. Vacancies to be filled by promotion.—(1) Selection shall be made for recruitment by promotion—

- (a) to the post of Registrar, strictly on merit from amongst the permanent Deputy Registrars;
- (b) to the post of Deputy Registrar, on the basis of seniority subject to rejection of the unfit, from amongst the permanent Assistant Registrars; and
- (c) to the post of Assistant Registrar, on the basis of seniority subject to rejection of the unfit, from amongst the permanent Superintendents including permanent Superintendents (Accounts) in the offices of the Universities.

1. Rule 20 subs. by Notification No. 482/LXX-1-2005-15 (16)-2005, dated 30 September, 2005. Published in U.P. Gazette, Extra, Part 4, Section (Ka), dated 30 September, 2005.

(2) The selection shall be made in consultation with the Commission according to the Uttar Pradesh Selection by Promotion in Consultation with Public Service Commission (Procedure) Rules, 1970.

(3) The Selection Committee for the purpose of such selection, shall consist of,—

- (i) The Chairman or a member of the Commission, representing the Commission, who shall be the Chairman of the Committee;
- (ii) The Director, Higher Education, Uttar Pradesh; and
- (iii) One of the Vice-Chancellors of the Universities, to be nominated by the State Government.)

PART VII

APPOINTMENT, PROBATION AND CONFIRMATION

21. Appointment.—(1) On the occurrence of substantive vacancies, the Government shall make appointment to the various posts in the Centralised Service from the list prepared under Rule 19 or Rule 20, as the case may be.

(2) The Government may also make appointment in temporary vacancies for a period exceeding six weeks from among the persons from the list prepared under Rules 19 and 20.

(3) If no approved candidate is available for appointment the Government may either make a temporary appointment by deputation of an officer serving under the State Government or may appoint a candidate who is eligible under the rules for permanent recruitment to the Centralised Service. No such appointment shall extend beyond the period of one year without consultation with the Commission.

(4) If a vacancy arises in any post for a period not exceeding six weeks, temporary arrangement may be made by the Vice-Chancellor concerned by appointment of a person eligible under the rules.

22. Probation.—(1) A person on appointment to the Centralised Service in or against a substantive vacancy, shall be placed on probation for a period of two years :

Provided that continuous service rendered in an officiating or temporary capacity in a post included in the cadre of the Centralised Service may be allowed, in whole or in part, to be counted by the State Government towards the period of probation :

Provided further that the Government may, for sufficient reasons to be recorded in writing, extend the period of probation in individual cases for a further period not exceeding two years. Any such order of extension shall specify the exact period for which the probationary period is extended.

(2) If during or at the end of the period of probation or extended period of probation, it is found that the person concerned has not made sufficient use of his opportunities or has otherwise failed to come up to the standard expected of him, he may be reverted to his substantive post, if any, or if he does not hold a lien on any post his services may be dispensed with without entitling him to any compensation.

23. Confirmation.—A probationer shall be confirmed in his appointment at the end of the period of probation or the extended period of probation, as the case may be, if his work and conduct are satisfactory and his integrity is certified by the Vice-Chancellor of the University in which he has, during the period of probation worked.

24. Seniority.—(1) Seniority in any category of posts in the Centralised Service shall be determined by the date of the order of appointment in substantive capacity to that category provided that if two or more candidates are appointed on the same date, their seniority *inter se* shall be determined according to the order in which their names appear in the list prepared under Rule 19 or 20.

(2) Seniority of the offices in Service at the commencement of these rules may be determined in any category of posts on the basis of total length of continuous service followed by confirmation in that category.

(3) If a dispute arises in regard to the seniority of an Officer, the manner shall be decided by orders of the Government which shall be final.

Note.—A candidate appointed directly may lose his seniority if he fails to join without valid reasons when a vacancy is offered to him. Whether the reasons in a particular case are valid or not shall be subject to the decision of the State Government.

25. Transfer.—The State Government may transfer any member of the Centralised Service from one University to another.

PART VIII

OTHER PROVISIONS

26. Paying Authority.—Subject to the provisions of these rules, the pay and allowances of persons appointed to Centralised Service shall be paid by the University in which such person is for the time being posted.

27. Pay during probation.—(1) A person on probation, if he is not already in the permanent service of a University shall draw during the period of probation, the minimum pay of the post for the first year and increments as they accrue, provided that, if the period of probation is extended on account of failure to give satisfaction, the extended period shall not count for increment unless the Government so directs.

(2) The pay during the period of probation of a person who is already holding a substantive post in the service of a University before recruitment to the Centralised Service, shall be regulated in accordance with the relevant rules relating to the pay of the employees of the University.

28. Criteria for crossing efficiency bars.—(1) No member of the Centralised Service shall be allowed to cross the first efficiency bar unless he is found to have worked satisfactorily and to the best of his ability and his integrity is certified by the Vice-Chancellor of the University in which he has worked.

(2) No member of the Centralised Service shall be allowed to cross the second and subsequent efficiency bars, if any, unless he has given full satisfaction by his work, conduct, integrity and ability.

(3) Orders allowing a member of the Centralised Service to cross an efficiency bar and allowing the increment next above the bar shall be issued by the University in which he is for the time being posted.

(4) On each occasion on which a member of the Centralised Service is allowed to cross an efficiency bar which had previously been withheld, his pay, with effect from the date of crossing the bar shall be fixed in the time scale at such stage as the University may decide.

29. **Canvassing.**—No recommendation for recruitment, either written or oral, other than those required under these rules, shall be taken into consideration. Any attempt on the part of a candidate to enlist support either directly or indirectly for his candidature by other means, shall disqualify him for appointment.

30. **Leave, leave allowances, officiating pay, fees and honoraria.**—(1) Except as otherwise provided in these rules, all matters relating to leave and leave-salary shall be regulated in the manner laid down in the leave rules applicable to the government servants of like status and all amendments thereto together with all explanations and clarifications issued from time to time shall, *mutatis mutandis*, apply.

(2) Grant of pay, including officiating and additional pay, special pay, honorarium compensatory allowance, subsistence allowance, to a member of the Centralised Service and the acceptance of fees, if any, shall be regulated on the same terms and conditions as are applicable to the government servants of the same status under the U.P. Fundamental and Subsidiary Rules contained in the U.P. Financial Hand-Book, Volume II, Parts II-IV.

(3) Except as expressly provided in these rules, the provisions of the U.P. Fundamental and Subsidiary Rules contained in the Financial Hand-Book, Volume II, Parts II-IV and travelling allowance rules contained in Financial Hand-Book, Volume III, shall, *mutatis mutandis*, apply.

Notes.—(i) The corresponding authorities competent to exercise various powers under the said Hand-Book for purposes of these rules shall be such as Government may, by order, determine from time to time.

(ii) In the event of doubt about the applicability of the rules etc., the decision of the Government shall be final.

31. **Incidence of leave charges, etc.**—The incidence of leave charges, transit pay and allowances including travelling allowance of a member of the Centralised Service transferred from one University to another, shall be regulated in accordance with the following principles :

- (a) When a member of the service is transferred from one University to another, his transit pay and allowances shall be borne by the University to which he is transferred;
- (b) Before the member of the service is allowed to draw his pay and allowances in the University to which he has been transferred, the member shall produce a certificate from the Finance Officer of the University in which he has been serving before such transfer to the effect that such member has not drawn any such pay or allowances;

- (c) Leave salary shall be borne by the University from where such member proceeds on leave.

32. Existing Provident Fund rules to continue.—Till such time as a common Provident Fund for the Centralised Service is established, the members of the Service shall, unless otherwise provided in these rules, continue to be governed by the Provident Fund Regulations or Rules of the University in which they are posted for the time being :

Provided that notwithstanding anything contained in the regulations or the rules of such University, the minimum amount of subscription to be made by a member of such service to the Fund shall be an amount calculated at the rate of ten per cent of his salary (which term shall mean pay, leave salary or subsistence grant as defined in Financial Hand-Book, Volume II) and the contribution thereto be made by the University shall be at the rate of twelve per cent of his salary in the case of a subscriber drawing a salary of Rs. 500 and ten per cent in the case of a subscriber drawing a salary more than Rs. 500 but not exceeding Rs. 1000 and eight per cent in each case of a subscriber drawing a salary of Rs. 1000 or above, both amounts being separately rounded to the nearest whole rupee (50 paise or more counting as the next higher rupee) :

Provided further that a member of the Centralised Service, who was governed by any General Provident Fund Regulations or Rules of a University immediately before his absorption in or appointment to such service shall, notwithstanding anything contained in these Rules, continue to be governed by such General Provident Fund Regulations or Rules, as the case may be, in the following manner :

- (i) the subscription on account of General Provident Fund of such a member shall be deducted every month from his pay by the University in which he is posted for the time being;
- (ii) The said University shall pay every month to the University in which such an officer was employed immediately before his absorption in or appointment to the Centralised Service his subscription to the General Provident Fund; and
- (iii) The University where such an officer was employed immediately before his absorption or appointment shall be liable to pay General Provident Fund to him after his retirement and to the members of his family in accordance with the said General Provident Fund Regulations or Rules, as the case may be.

33. Provident Fund in the case of transfer.—Immediately upon transfer of a member of the Centralised Service from one University to another, otherwise than in a leave arrangement not exceeding 120 days, a new Provident Fund Account shall be opened in the name of such member under the University to which he has been transferred and the Vice-Chancellor of the University from where he has been transferred shall, within thirty days from the date of such transfer, forward to the University to which he has been transferred, a full and complete account of the member's Provident Fund and cause to be transferred to his new account the amount standing to his credit in the old account along with interest calculated up to the month in which the account is so transferred. All further interest on such amount as from the next succeeding month, shall be payable by the University where the new account has been opened.

34. Intimation to be sent promptly.—In the circumstances other than those mentioned in Rule 33 the member of the Centralised Service shall continue to subscribe to his existing Provident Fund and tender such further amounts as may be required of him in connection therewith and the University administering the Fund shall continue to credit its own contribution thereto, and it shall be incumbent on the University to which the officer has been transferred to inform with all reasonable despatch the University from where such member has been transferred, the exact amount of his emoluments. Intimation about every change therein shall similarly be sent promptly.

35. Responsibility of the University.—The responsibility for payment upon an amount becoming due shall devolve on the University which is responsible for maintaining the Provident Fund for the time being.

¹[**36. Disciplinary proceedings.**—(1) Subject to such modifications as the State Government may make from time to time, and subject to the provisions of sub-rules (2) to (9), the rules relating to disciplinary proceedings, appeals and representations against punishment, applicable to the employees of the State Government shall *mutatis mutandis* apply to the members of the Centralised Service.

(2) The power to start disciplinary proceedings and to impose—

- (a) the punishment of dismissal or removal from service or reduction in rank on the members of the Centralised Service shall vest in the State Government; and
- (b) other punishments shall vest in the Vice-Chancellor of the University in which the member of such service is for the time being posted :

Provided that it shall be necessary to consult the Commission before passing an order imposing any of the punishments referred to in clause (a).

(3) Where disciplinary proceedings against a member of the Centralised Service have been started in accordance with the provisions of sub-rule (2)—

- (a) by the Vice-Chancellor and after the completion of inquiry, he comes to a provisional conclusion that a punishment referred to in clause (a) of sub-rule (2) is called for, he shall refer the case along with his findings and recommendations to the State Government for orders;
- (b) by the State Government and, during or after the completion of inquiry, it comes to a provisional conclusion that a punishment to which clause (b) of sub-rule (2) applies is called for, it shall refer the case to the Vice-Chancellor who shall pass such orders as he deems fit, and shall send a report of the action taken to the State Government.

(4) Notwithstanding anything contained in sub-rules (1) to (3), the State Government may direct the Vice-Chancellor of a University in which any member of the Centralised Service is for the time being posted to start

disciplinary proceedings against him and to inform it of the result thereof or as the case may be, refer the case to the State Government for its final orders under clause (a) of sub-rule (3).

(5) Where the Vice-Chancellor of any University wants to start disciplinary proceedings against a member of the Centralised Service, who has been transferred to some other University, he shall submit a report to the State Government to that effect, and thereupon, the State Government may—

- (i) itself proceed in accordance with clause (a) of sub-rule (2); or
- (ii) direct the Vice-Chancellor of the first mentioned University to start and conclude the inquiry in accordance with clause (b) of the said sub-rule or, as the case may be, refer the case to the State Government for its final order under clause (a) of sub-rule (3); or
- (iii) direct the Vice-Chancellor of the University in which such member is for the time being posted to start and conclude the inquiry against such member and inform the State Government of the result thereof or, as the case may be, refer the case to the State Government for its final order under clause (a) of sub-rule (3).

(6) Where the Vice-Chancellor of a University is competent to start disciplinary proceedings under this rule, he may hold the inquiry himself or may appoint any other officer of the University for the purpose.

(7) The State Government may, at any stage, transfer any proceedings under this rule from one officer to another officer in the same University, or from the Vice-Chancellor of one University to the Vice-Chancellor of any other University, and unless any direction is issued to the contrary, the officer or the Vice-Chancellor to whom such proceedings are transferred shall continue the proceedings from the stage at which it was so transferred.

(8) During the course of inquiry under this rule, the Vice-Chancellor or the officer appointed by him as inquiry officer under sub-rule (6) may exercise all the powers of the inquiring authority under the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.

(9) Notwithstanding anything contained in these rules, it shall be lawful for the State Government to direct that the disciplinary proceedings against any member of the Centralised Service may be started in respect of any act or omission relating to the period before the date of his absorption in such service under Rule 7 and thereupon the provisions of sub-rules (1) to (8) shall *mutatis mutandis* apply.]

37. Age of retirement.—(1) Subject to the provisions of sub-rule (2), the age of retirement from service of the member of the Centralised Service shall be 60 years beyond which no one shall be retained in the Service.

(2) The State Government may require a member of the Centralised Service to retire on his attaining the age of 57 years on three months notice or pay in lieu of the whole or part thereof if the State Government considers it necessary to do so in public interest.

(3) A member of the Centralised Service, may, on attaining the age of 57 years, voluntarily retire after giving three months' notice to the State Government. In case of the member against whom disciplinary proceedings are pending or contemplated, this notice shall be effective only when it is accepted by the State Government. A notice once given under this sub-rule shall not be withdrawn without the permission of the State Government.

38. Reference to the State Government.—(1) If any dispute arises as to liability of a University for payment of salary, travelling allowance, Provident Fund or any other dues to a member of the Centralised Service, or if any dispute or difficulty arises regarding interpretation of any of the provisions of these rules, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

(2) Matters not covered by these rules shall be governed by such rules or orders as the State Government may from time to time make.

39. Power to grant exemption.—Notwithstanding anything contained in these rules, where the State Government is satisfied that the operation of any of the provisions of these rules causes undue hardship in any particular case, it may in consultation with the Commission by order dispense with or relax the requirements of that provision to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner.

40. Power to delegate.—The State Government may, by notification published in the Official Gazette, delegate any of its powers under these rules, to any person or authority on such conditions as it thinks fit.

RULES FOR ADMISSIONS TO COURSES OF INSTRUCTION FOR DEGREES IN EDUCATION IN AFFILIATED OR ASSOCIATED COLLEGES OF STATE UNIVERSITIES, 1983¹

In exercise of the powers under sub-section (5) of Section 28 of the Uttar Pradesh State Universities Act, 1973 as amended and re-enacted by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974 (U.P. Act No. 29 of 1974), the Governor is pleased to supersede all previous Rules and Orders relating to admission to courses of instruction for degrees in Education in Colleges affiliated to or associated with Universities established under the aforesaid Act and to direct that such admission shall be regulated hereafter by the Rules appended hereto.

CHAPTER I

GENERAL.

1. **Short title.**—These rules may be called the rules for admission to courses of instruction for Degrees in Education in Affiliated/Associated Colleges of State Universities. These Rules shall come into force with effect from the academic session 1983-84.

2. **Definitions.**—In these rules unless the context otherwise required—

- (a) "Act" means the Uttar Pradesh State Universities Act, 1973 as amended and re-enacted by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974;
- (b) "College" means such college as is duly affiliated to or associated with a University established under the Act;
- (c) "Course of Instruction" means such course of instruction as is imparted in a college for preparing students for admission to examination for B.Ed. or as the case may be M.Ed. degree conducted by the University to which such college is affiliated or associated;
- (d) "University" means the University to or with which the college where admissions to a course of instruction is sought or made is affiliated or associated.

CHAPTER II

ADMISSION TO B.Ed. CLASSES

3. **Qualifications for admission.**—The minimum educational qualification requisite for the admission of a candidate to B.Ed. Classes shall be the graduate degree with at least two school-teaching subjects, of a University established by law.

1. Vide Not. No. Shiksha (11)-2929/XV:83(11)-3(58)-79, dated May 17, 1983. Published in U.P. Gazette, Extra, dated 17th May, 1983.

Explanation.—A candidate who has passed an examination for the degree of B.A. with Education or Psychology or Philosophy as one of the subjects and any one of the school-teaching subjects as another subject or B.Com. or B.Sc. (Ag.) or B.Sc. (Home Science) as the case may be shall be deemed to possess the minimum qualification within the meaning of this Rule.

But if a candidate has offered one school-teaching subject or Education or Psychology or Philosophy at the graduation level and has thereafter passed an examination at the graduation/post graduation level with another school-teaching subject shall also be deemed to possess the minimum qualification within the meaning of this Rule.

4. Maximum number approved for admissions to B.Ed. Classes.—¹[(1) The maximum number of students to be admitted in every college shall be such as may be prescribed by the Vice-Chancellor of the University and no person shall be admitted in excess of such number in any case. In prescribing the maximum number of students to be admitted the Vice-Chancellor shall take into account the teachers available in the college concerned for B.Ed. instructions, so as to maintain the teacher-pupil ratio at 1 : 15.

(2) In a college having Science classes also the number of seats for candidates holding a B.Sc. Degree shall be prescribed by the Vice-Chancellor. In prescribing such number of seats, the Vice-Chancellor shall take into account the number of Science teachers available in the B.Ed. Department of the College so as to maintain in respect of such candidates the teacher-pupil ratio at 1 : 15.]

5. Reservation of seats.—In every college, reservation of seats for admission to B.Ed. Classes shall in relation to the total number of seats in such college be made in favour of the Scheduled Castes and Scheduled Tribes, Backward Castes and Handicapped candidates to the extent of 18 per cent, 2 per cent, 10 per cent and 2 per cent respectively :

Provided that where sufficient number of candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Castes and handicapped candidates is not available for admission such seats as are reserved for them and remain unfilled shall be filled by the general candidates.

Note.—A handicapped candidate shall have to submit along with his application a certificate from the Chief Medical Officer of the district to the effect that though he is handicapped he is not dumb, deaf, does not stammer, or does not suffer from skin disease or any other disease which is likely to spread among children or cause hindrance in class teaching.

6. Application for admission.—(1) Every candidate for admission to B.Ed. classes shall apply in the manner hereinafter provided in the prescribed form to be obtained from the office of the Registrar of the University concerned on payment of Rs. 3 for each form. The last date for applying for admission shall ordinarily be the 31st day of May or such date in the month of June as the University may prescribe.

1. Subs. by Noti. No. Shiksha-11-6657/XV-83(11)-3 (58)-79, dated 23rd November, 1983.

(2) The candidate shall send by registered post one copy of the application to the Registrar of the University.

(3) Another copy of such application containing the number and date of the postal registration receipt shall be sent to the college by registered post.

(4) No such application received in the office of Registrar or the college after such date as may be prescribed by the University in this behalf shall be entertained.

7. Basis of selection.—In respect of every candidate for admission to a course of instructions in B.Ed. classes, a statement of marks allotted to him shall be prepared in the manner hereinafter provided and the candidates shall subject to the other provisions of these rules be admitted to such course of instruction strictly on the basis of such marks an order of merit.

8. Allotment of marks.—(1) Every candidate shall be allotted marks equal to a total of percentage of total marks obtained by him in each of the High School, Intermediate and graduate examinations and one-fourth of the percentage of marks obtained by him in the postgraduate examination and such additional marks, if any as he may be entitled to under these Rules.

Explanations.—(a) Where a candidate has passed the Higher Secondary Examination and thereafter graduated after passing a three-year degree course, marks shall be allotted to him equal to a total of twice the percentage of marks obtained by him in the Higher Secondary Examination and marks obtained in the graduation examination.

(b) Where a candidate has passed more than one postgraduate examination, he shall be allotted one-fourth of the marks which the candidate has indicated in his application under Rule 6.

(2) A candidate falling under any of the categories specified below shall on furnishing such certificates as may be specified by the University in that behalf be allotted extra marks indicated against each but the total of extra marks thus obtained shall not exceed twenty-five.

| | Marks |
|---|--------|
| (1) Candidates taking part in National or State or Inter-University games and sports competition (Certificates of participating in the National or State level games or sports competitions issued by the Government Sports Department only shall be accepted) | ... 15 |
| (2) Candidates taking part in Inter-College Sports competition conducted by any University | ... 10 |
| (3) Male candidates obtaining "C" certificates and female candidates obtaining "G-2" certificates in the National Cadets Corps | ... 15 |
| Or | |
| Male candidates obtaining "B" certificates and female candidates obtaining 'G-1' certificates | ... 10 |

Or

- | | | |
|--|-----|----|
| Candidates serving for 240 hours and participating in two or more special camps in National Service Scheme | ... | 15 |
| Candidates serving for 240 hours and participating in one special camp in National Service Scheme | ... | 10 |

Or

- | | | |
|--|----------------|----|
| Candidates serving for 240 hours in National Service Scheme | ... | 5 |
| (4) Candidates related to a freedom-fighter as his son or daughter or his son's son or his son's unmarried daughter (this concession shall cease after the year 1985) | ... | 15 |
| (5) Candidates being defence employee in active service or demobilised or honourably retired or related to such an employee or a disabled, diseased or traceless defence employee as his son, daughter or wife | ... | 15 |
| (6) Candidates employed in Police or PAC or Homeguard or B.S.F. for S.S.B. or ITB or CRP or Civil Defence Organisation or related to such an employee whether in active service or retired, disabled or diseased as his son or daughter. | ... | 15 |
| (7) Candidates being widows or divorced or abandoned women (such candidates shall furnish legal certificates to this effect) | ... | 15 |
| ¹ {(8) Son/Daughter/Wife of Teacher or non-teaching employee of any recognised educational institution | ... 10 Marks]. | |

Illustrations.—A candidate, who has secured 55 per cent marks in the High School Examination, 50 per cent marks in Intermediate Examination, 52.2 per cent marks in graduation examination and 60 per cent marks in the post-graduation examination shall be allotted 172.2 Marks [55 + 50 + 52.2 + 15 (One fourth of 60 per cent) = 172.2].

If this candidate obtains extra 30 marks on furnishing prescribed certificates under Rule 8 (2) then out of these extra marks 25 extra marks only, shall be added to the marks allotted above. Thus the total of all marks allotted to this candidate will be 197.2.

(3) If marks obtained on the basis of the above Rules 8 (1) and 8 (2) are of equal preference shall be given to that candidate who has graduated from the same University to which the college in which he is seeking admission, is affiliated or associated, but no extra marks shall be allotted on this account to that candidate.

1. Added by Noti. No. Shiksha-11-3278/XV-84 (II)-3-(58)-79, dated 30th May, 1984. Published in U.P. Gazette Extra., dated 28th November, 1984.

9. Preparation of list of candidates in order of merit.—(1) On receiving the applications under Rule 6 there shall be prepared in quadruplicate in every college in respect of such applications, two lists namely list 'A' for the reserved seats and the list 'B' for unreserved seats, containing the names in order of merit of qualified candidates together with the particulars mentioned in Rule 8.

(2) The list prepared under this Rule duly signed by the Principal of the college shall be sent to the University within one week from the last date fixed for submission of applications under Rule 6.

10. Selection Committee.—(1) For selection of candidate for admission to the B.Ed. Classes there shall be a selection committee consisting of the following three members for every college, namely :

- (i) A nominee of the Vice-Chancellor of the University (who shall also be convener of the committee).
- (ii) A nominee of the Director of Education (Higher Education).
- (iii) Principal of the college or in his absence the seniormost teacher of the B.Ed. Department of the college.

(2) The selection committee shall hold its sittings at the headquarters of the University or with prior approval of the Vice-Chancellor, in the College.

(3) All the applications for admission received in the college as well as the lists of candidates forwarded to the University under Rule 9 shall after comparison with the application received in such University and due verification be placed before the selection committee.

(4) The selection committee shall on a consideration of the applications and lists referred to in sub-rule (3) prepare in order of merit list of candidates fit for admission.

(5) The list prepared under sub-rule (4) shall contain the names of candidates selected for admission to the reserved and the unreserved seats available in the college as well as the marks allotted to each such candidate under these Rules.

(6) The selection committee shall also prepare a waiting list of such candidates as may be admitted in a college in accordance with these Rules in the event of the failure of a candidate included in the list under sub-rule (5) to join the college.

(7) The selection committee shall prepare the lists under sub-rule (5) or sub-rule (6) ordinarily by the end of June and shall forthwith furnish one copy thereof to the University and another copy thereof to the college.

(8) In the event of any one member of selection committee being absent, the proceedings of selection shall not be rendered illegal.

11. Admission of selected candidates.—(1) The Principal of the college shall send intimation by registered post at the earliest to every candidate whose name is included in the list prepared under sub-rule (5) of Rule 10 and that candidate shall within fifteen days of the date of registration of intimation in the post office, take admission in that college and on his failure to do so he shall forfeit his claim to admission.

(2) Where any seat falls vacant under sub-rule (1) it may be filled by the admission of a candidate out of the candidates in serial order included in the list prepared under sub-rule (6) of Rule 10.

12. Medical Certificate.—Every candidate selected under Rule 10 shall have to furnish, before admission, a certificate given or countersigned by the Chief Medical Officer in which it should be clearly mentioned that the candidate does not stammer and on account of any disease of the ear, the eye or any other limb, is not unfit to be a teacher.

13. Disqualification for admission in certain cases.—Notwithstanding anything in these Rules where it is discovered that a candidate has been punished on account of using unfair means in any examination or has been expelled from any educational institution the Principal of the college may, subject to the approval of the Vice-Chancellor of the University, refuse to admit such candidate.

CHAPTER III

ADMISSION TO M.Ed. CLASSES

14. Introductory.—The provisions of this Chapter shall apply for admission to a course of instruction in M.Ed. classes only in any college.

15. Academic qualifications for admission.—(1) No person shall be admitted in any college unless he has passed an examination for the degree of B.Ed. conducted by a University established by law or an examination for the diploma of recognised B.T. or L.T.

(2) Only those applications for admission to M.Ed. will be considered where the candidates, according to the statutes of the concerned University, fulfil all other qualifications except M.Ed., for appointment as a lecturer in B.A. (Education) or in the B.Ed. department in the degree colleges of the State.

16. Admission according to merit.—Candidates shall be admitted strictly in order of merit on the basis of percentage of marks obtained in the B.Ed. or its equivalent other recognised examinations, full marks obtained in the theory and fifty per cent marks obtained in the practical examination shall be considered in calculating the percentage.

Illustration.—If a candidates has secured 240 marks out of 500 in the Theory and 140 marks out of 200 in the Practical Examination, there for the sake of calculation, the full marks obtained by him will be $240 + (140/2 \text{ or } 70) = 310$ and his percentage will be $44.28 (310 + 100)/700$.

17. Application of Rules of Chapter II.—The provisions of Rules 4, 5, 6, 9, 10, 11, 13 shall *mutatis mutandis* apply to admission under this Chapter also.

UTTAR PRADESH STATE UNIVERSITIES (RESERVATION IN ADMISSION FOR SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES) ORDER, 1994¹

In exercise of the powers under Clause (a) of sub-section (5) of Section 28 of the Uttar Pradesh State Universities Act, 1973 (President's Act No. 10 of 1973 as amended and re-enacted by U.P. Act No. 29 of 1974), the Governor is pleased to make the following order :

1. (1) This order may be called the Uttar Pradesh State Universities (Reservation in Admission for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Order, 1994.

(2) It shall come into force at once.

2. ² [(1)] Subject to the provisions of sub-section (5) of Section 28 of the Uttar Pradesh States Universities Act, 1973, with effect from the academic Session of 1994-95, following percentages of seats in any course of study in a University, Institute, Constituent College, Affiliated College or Associated College shall be reserved for admission for the candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens, namely :

| | |
|------------------------------------|-----------------------|
| Scheduled Castes | Twenty-one per cent |
| Scheduled Tribes | Two per cent |
| Other Backward Classes of citizens | Twenty-seven per cent |

Provided that where any University has provided for Reservation in admissions in favour of any other category of candidates than those referred to above, the candidate selected for admission on the basis of such reservation shall be placed in the appropriate category to which he belongs. For example, if a candidate, selected for admission to any course of study on the basis of reservation in favour of sports person, belongs to the Scheduled Castes, Scheduled Tribes or Other Backward Classes, he will be placed in the respective category to which he belongs by making necessary adjustments and similarly, if he belongs to general category, he will be placed in that category after making necessary adjustment :

Provided further that the seats, if any, reserved under any other law for the time being in force, or under any order of the Government of India, for the students belonging to any other State, shall not be included in the total number of seats for the purpose of computing the percentages under this paragraph.

Explanation.—For the purposes of this order the term general category, means the category other than those referred to in paragraph 2.

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1. *Vide* Noti No. 2638/XV-X-94-15 (66)-89, dated July 20, 1994. Published in the U.P. Gazette, Extra., Part 4, Section (Kha), dated 20th July, 1994.
 2. Renumbered by Noti No. 3509/XV-10 94-15 (66)-89, dated 30-8-1994 (w.e.f. 30-8-1994).

¹[(2) The reservation in admission as provided in sub-paragraph (1) shall also apply in any course of study in an University, Institute or such College in respect of any academic session, prior to academic session 1994-95, for which admissions are to be made.]

3. If eligible candidates belonging to the Scheduled Tribes are not available to fill in the seat reserved for them under paragraph 2, such seat shall in be filled by candidates belonging to the Scheduled Castes.

4. Subject to paragraph 3, where due to non-availability of eligible candidates any of the seats reserved under paragraph 2, remains unfilled, it shall be filled in by candidate of general category.

Explanation.—For the purposes of paragraphs 3 and 4 it is clarified that a candidate belonging to the Scheduled Castes, Scheduled Tribes or Other Backward Classes of citizens shall not be ineligible if he fails to secure the minimum qualifying marks, if any, at any admission test or under any norm relating to admissions.

5. If a candidate belonging to any of the categories mentioned in paragraph 2 gets selected for admission on the basis of merit with general category candidates, he shall not be adjusted against the seats reserved for such category under paragraph 2.

6. The teachers, belonging to the Scheduled Castes, Scheduled Tribes or Other Backward Classes of citizens shall, so far as possible, be given representation in the admission committees to ensure fair admissions.

7. The Chairperson of the Admission Committee and the Vice-Chancellor in the case of University and such Chairperson and the Head of Institution in any other case, shall be responsible for due observance of this order.

8. Whoever wilfully acts in a manner intended to contravene or defeat the purposes of this order shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

THE UTTAR PRADESH STATE UNIVERSITIES (VALIDATION OF APPOINTMENTS) ACT, 1984¹

[U. P. Act No. 18 of 1984]

(As passed by the Uttar Pradesh Legislature)

An Act to validate certain appointments, made in the State Universities

It is hereby enacted in the Thirty-fifth year of the Republic of India as follows :

1. Short title and commencement.—(1) This Act may be called the Uttar Pradesh State Universities (Validation of Appointments) Act, 1984.

(2) It shall be deemed to have come into force on August 16, 1984.

2. Validation of appointments.—Notwithstanding any judgment, decree or order of any Court or order of any officer or authority or anything contained in the Uttar Pradesh State Universities Act, 1973 or Statutes framed thereunder, the appointment of every teacher made in any University governed by the said Act or in any affiliated or associated college thereof during the period July 1, 1978 and the date of commencement of this act, in excess of the number of posts advertised, shall be and be deemed always to have been valid and validity of such appointments shall not be called in question before any Court, tribunal, officer or authority merely on the ground that the post was not separately advertised or that the prescribed procedure was not followed.

3. Repeal and savings.—(1) The Uttar Pradesh State Universities (Validation of Appointment) Ordinance, 1984 (U.P. Ordinance No. 16 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under this Act, as if this Act were in force at all material times.

1. Received the assent of the Governor on September 29, 1984 and published in U.P. Gazette, Extra., dated 1st October, 1984.

THE UTTAR PRADESH STATE UNIVERSITIES (REGULATION OF ADMISSION TO COURSES OF INSTRUCTION FOR DEGREE IN EDUCATION IN AFFILIATED ASSOCIATED AND CONSTITUENT COLLEGES) ORDER, 1987¹

In exercise of the powers under sub-section (5) of Section 28 of the Uttar Pradesh State Universities Act, 1973 as amended and re-enacted by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974 (U.P. Act No. 29 of 1974) and in supersession of all previous Rules and Orders issued in this behalf, the Governor is pleased to make the following order—

CHAPTER I

GENERAL

1. Short title and commencement.—(i) These orders may be called the Uttar Pradesh State Universities (Regulation of Admission to Courses of Instruction for Degree in Education in Affiliated, Associated and Constituent Colleges) Order, 1987.

(ii) They shall come into force with effect from the academic session 1987-88.

2. Definitions.—In these orders unless the context otherwise requires—

- (a) "Act" means the Uttar Pradesh State Universities Act, 1973 as amended and re-enacted by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974;
- (b) "College" means such college as is duly affiliated to or associated with or constituent of a University established under the Act;
- (c) "Course of Instruction" means such course of instruction as is imparted in a college for preparing students for admission to examination for B.Ed. or as the case may be, M.Ed. degree conducted by the University to which such college is affiliated or associated constituent;
- (d) "University" means the University to or with which the college where admissions to a course of instruction is sought or made is affiliated or associated or constituent.

CHAPTER II

ADMISSION TO B.Ed. CLASSES

3. Qualifications for admission and the responsibility of preparing the merit list.—²“(1) The minimum educational qualification requisite for the admission in B.Ed. Classes shall be—

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1. Vide Noti. No. 451/XV-11-87-3 (58)-79, dated 5 May, 1987. Published in U.P. Gazette, Extra., Part-4, Section (ka), dated 5 May, 1987.
 2. Para 3 sub-para (1) subs. by Noti. No. 416/LX-2-2007-3 (58)-79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-1, Section (ka), dated 1, February, 2007.

- (a) a graduate or post graduate degree of University established by law in case of candidates belonging to Scheduled Castes and Scheduled Tribes, and
- (b) a graduate or post graduate degree of University established by law with a minimum of 50% marks in case of other candidates.

(2) It will be the responsibility of the State University conducting entrance test to prepare the merit list for admission to B.Ed. Courses in an affiliated, associated or a constituent college. Admissions shall be made according to the merit list so prepared, unless a candidate is found in eligible for admission under sub-para (3) of Para 12."

4. Maximum number approved for admission to B.Ed. Classes.—(1) The maximum number of students to be admitted in every college shall be such, as may be, prescribed by the Vice-Chancellor of the University and no person shall be admitted in excess of such number in any case. In prescribing the maximum number of students to be admitted the Vice-Chancellor shall take into account the teachers available in the college concerned for B.Ed. instructions so as to maintain the teacher-pupil ratio at 1 : 15.

(2) (a) Number of seats for admission to Science graduates for B.Ed. training will be allotted by the Vice-Chancellor on the basis of availability of Science teachers in the B.Ed. Department so that teacher-pupil ratio is maintained at 1 : 15 provided such college fulfills the following conditions :

It has Science classes up to B.Sc. Standard.

or

It has high school standard science laboratory in the B.Ed. department itself.

or

The school in which actual teaching training is given has science recognition of high school standard.

(b) The colleges, other than the colleges mentioned in clause (a) recognised for B.Ed. training shall not admit Science graduates even if it has science teachers on its B.Ed. staff.

(3) The admissions in the candidates of outside states shall be given up to 5 per cent if such candidates are eligible for admission on the basis of merit list prepared under para 3. If the eligible candidates of other states on the basis of merit list are not available for admission the seats so reserved for them shall be filled by general candidates.

5. Reservation of Seats.—In every college, reservation of seats for admission to B.Ed. classes shall in relation to the total number of seats in such college be made in favour of the Scheduled Castes and Scheduled Tribes, Backward Castes and Handicapped candidates to the extent of 18 per cent, 2 per cent, 10 per cent and 2 per cent respectively :

Provided that where sufficient number of eligible candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Castes and handicapped candidates is not available for admission such seats as are preserved for them and remain unfilled shall be filled by the general candidates.

Note.—A handicapped candidate shall have to submit along with his application a certificate from the Chief Medical Officer of the district to the effect that though he is handicapped he is not dumb, deaf, does not stammer, or does not suffer from skin disease or any other disease which is likely to spread among children or cause hindrance in class teaching.

6. **Application for admission.**—¹“(1) Every candidate for admission of B.Ed. classes shall apply in the manner hereinafter provided in the prescribed form to be obtained from the office of the Registrar of the State University conducting entrance test or other prescribed places on prescribed fee. The last date for applying for admission shall ordinarily be the 31st day of May or such date in the month of June as the State University conducting entrance test may prescribe.”

(2) The candidate shall send the application form by Registered post to the Registrar of the State University conducting entrance test.

(3) No application received in the office of the Registrar after such date as may be prescribed by the State University conducting entrance test in this behalf shall be entertained.”

7. **Examination for Admission.**—²“(Joint Entrance Examination will be conducted by a State University authorised by the State Government for admission to B.Ed. courses in each academic session. The date of examination will be determined by the State Government.

(a) in case the entrance examination for admission to B.Ed. Course is conducted by the State Level Association of self-financing institution, the date of this examination shall be other than the date of examination conducted by the State University.”]

8. **Examination Fee.**—³“(The examination fee for B.Ed. admission will be fixed with previous sanction of State Government, which shall be charged by the State University conducting entrance test.”]

9. **Courses for Examination and qualifying marks.**—(1) ‘There shall be following two papers in the admission examination.

| <i>Subject</i> | <i>Marks</i> | <i>Time</i> |
|---|--------------|-------------|
| (a) Language and General Knowledge. | 200 | 3 hours |
| (b) Aptitude test in which there shall be separate questions for Arts, Science and Commerce students. | 200 | 3 hours |

(2) Candidate securing at least 40 per cent marks in each paper shall be eligible for admission in B.Ed. Courses.

1. Para 6 subs. by Noti. No. 416/LXX-2-2007-3 (58)-79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-4, Section (ka), dated 1 February, 2007.
2. Paras 7 and 8 subs. by Notification No. 416/LXX-2-2007-3 (58)-79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-4, Section (ka), dated 1 February, 2007.
3. Paras 7 and 8 subs. by Noti. No. 416/LXX-2-2007-3 (58)-79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-4, Section (ka), dated 1 February, 2007.

10. Examination Centre.—The centres of the admission examination shall be decided by the State University conducting entrance test but efforts shall be made for minimum number of Examination centres. The institutions which have reputation for conducting fair examinations shall only be selected as examination centres.

11. Allotment of extra marks.—A candidate falling under any of the categories specified below shall on furnishing such certificates as may be specified by the University in that behalf be allotted extra marks indicated against each, but the total of extra marks thus obtained shall not exceed twenty-five.

(a) Candidates taking part in National or State level or Inter University games and sports competition,—

(i) In individual items candidate obtaining—

| | | |
|-----------------|---|----------|
| First position | — | 15 marks |
| Second position | — | 10 marks |
| Third position | — | 5 marks |

(ii) In the team items the candidates being member of—

| | | |
|--------------------|---|----------|
| Champion team | — | 15 marks |
| Runners-up team | — | 10 marks |
| Participating team | — | 5 marks |

(iii) In Inter-Collegiate tournament or games or athletic meet organised by the University candidate being—

| | | |
|-----------------------------------|---|----------|
| Member or Champion team | — | 10 marks |
| First position in individual item | — | 10 marks |

Notes.—(1) The candidates shall be given benefit of only one item under the item Nos. (i) to (iii) mentioned above.

(2) Certificates of participation in the National or State level games or sports competitions issued by the Government Sports Department only shall be accepted.

(b) Male candidates obtaining 'C' Certificates and female candidates obtaining G-2 Certificates in the National Cadets Corps;

Or

Male candidates obtaining (B) Certificates and female candidates obtaining 'G-1' Certificates;

Or

Candidates serving for 240 hours and participating in two or more special camps in National Service Scheme;

Or

| | | |
|--|---|----------|
| Candidates serving for 240 hours and participating in one special camp in National Service Scheme; | — | 10 Marks |
| Or | | |
| Candidates serving for 240 hours in National Scheme; | — | 5 Marks |
| Or | | |
| The candidates getting National Prize in Scouts & Guides; | — | 15 Marks |
| Or | | |
| The candidates getting Governors prize in Scouts and Guides; | — | 10 Marks |
| Or | | |
| The candidate trained as 'DHRUVA PAD' or 'GURU PAD' in Scouts and Guides. | — | 5 Marks |

Notes.—The candidates shall be given benefit of only one item under the item mentioned above.

- | | | |
|--|---|----------|
| (c) Candidates related to a freedom fighter as his son or daughter or his son's son or the unmarried daughter of son. | — | 15 Marks |
| (d) Candidates being defence employee in active service or demobilised or related to such an employee or to a disabled, deceased or traceless defence employee as his son, daughter or wife. | — | 15 Marks |
| (e) Candidates employed in Police or B.S.F. or P.A.C. or S.S.B. or L.T.B. or C.R.P. or Home Guard (the certificate of Home Guard should be countersigned by Senior Superintendent of Police or Superintendent of Police) or related to such an employee whether in active service or retired, disabled or deceased as his son or daughter. | — | 15 Marks |
| (f) Candidates being widow or divorced or abandoned women (such candidates should furnish legal certificates to this effect). | — | 15 Marks |
| (g) Teaching and non-teaching staff (only of approved institutions) or his/her son/daughter/wife/husband. | — | 15 Marks |

Notes.—(1) The certificate signed by Regional Higher Education Officer/District Inspector of School/Basic Shiksha Adhikari/Regional Inspectress or Girls School in case of 11 (G) mentioned above will be accepted.

(2) If a candidate gets more than 25 marks in the items mentioned in (a) to (g) above, he shall be given benefit of only 25 marks and not more.

¹{12. Preparation of merit list.—(1) Separate merit lists for reserved and general seats shall be prepared on the basis of marks obtained in admission examination and the marks obtained under Para 11 mentioned above.

(2) If the marks obtained by two or more candidates on the basis of admission examination and Para 11 are equal, preference shall be given to the candidates of the same University conducting entrance test or of college affiliated or associated with or constituent of the same University. If still the marks are equal then candidate being elder will be given preference.

(3) If against the conduct of any candidate there is report in writing of District Magistrate or against whom criminal proceedings are in process in any Court of law or if candidate has been punished by any Court in any criminal case or if the candidate has been debarred from University Examination for two or more years due to use of unfair means the principal of the college can refuse admission to such candidate with prior written approval of the Vice-Chancellor of the State University conducting entrance test.

(4) The criteria for preparing merit list on the basis of entrance examinations conducted by the State Level Association of self-financing institutions at State Level with prior permission and supervision of the Entrance Procedure Determination Committee shall be the same as provided above.

²{13. Option of the candidate in respect of admission to college.—(1) Each candidate may indicate five names of the colleges in order of priority in his application form. If it is not possible to admit the candidate in the indicated colleges on the basis of merit list then the State University conducting entrance test shall be free to give him admission in some other college.

(2) The merit list shall be prepared by State University conducting entrance test as indicated in Para 12 clearly indicating the marks obtained in admission examination and extra marks obtained along with details of the items under Para 11.

On the basis of merit list the State University conducting entrance test shall prepare the admission list of each college and shall communicate the same to the college. The State University conducting entrance test shall send intimation by registered post to every candidate whose name is included in the list so prepared.

(3) The merit list shall be published by the State University conducting entrance test in important newspapers having wide circulation.

(4) The candidate should present and take admission in the college as indicated in the admission list within 21 days of the date of registration of the intimation in the post office by the State University conducting test. After that date the candidate will have no claim for admission."

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1. Paras 12, 13 and 14 subs. by Noti. No. 416/LXX-2-2007-3 (58), 79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-4, Section (ka) dated 1 February, 2007.
 2. Paras 12, 13 and 14 subs. by Noti. No. 416/LXX-2-2007-3 (58)-79, dated 1 February, 2007. Published in U.P. Gazette, Extra., Part-4, Section (ka), dated 1 February, 2007.

¹[14. Admission.—(a) The principal of the concerned college shall give admission to the candidate after verifying their original certificates;

(b) The provisional certificate specially for the marks under Para 11 shall not be accepted;

(c) The principal has to take prior approval of the Vice-Chancellor of the State University conducting entrance test before finally refusing admission to any candidate;

(d) The State University conducting entrance test shall also prepare a waiting list. If any seat falls vacant within a month after the classes have started it will be filled from waiting list. It shall be the responsibility of the State University conducting entrance test to intimate the college and the candidate to fill the vacant seats;

(e) Every candidate selected for admission shall before admission have to furnish a certificate countersigned by the Chief Medical Officer in which it should be clearly mentioned that the candidate does not stammer and on account of any disease of the ear, eye or any other limb is not unfit to be a teacher.”]

CHAPTER III

ADMISSION TO M.Ed. CLASSES

15. Introductory.—The provision of this Chapter shall apply for admission to a course of instruction in M.Ed. classes only in any college.

16. No person shall be admitted in any college unless he has passed an examination for the degree of B.Ed. conducted by a University established by law or an examination for the diploma of recognised B.T. or LT.

17. Only those applications for admission to M.Ed. will be considered where the candidates, according to the statutes of the concerned University, fulfil all other qualifications except M.Ed., for appointment as a Lecturer in B.A. (Educational) or in the B.Ed., department in the degree colleges of the State.

18. Admission according to merit.—Candidates shall be admitted strictly in order of merit on the basis of percentage of marks obtained in the B.Ed. or its equivalent other recognised examinations. Full marks obtained in the theory and fifty per cent marks obtained in the practical examination shall be considered in calculating the percentage.

Illustration.—If a candidate has secured 240 marks out of 500 in the theory and 140 marks out of 200 in the practical examination then for the sake of calculation, the full marks obtained by him will be $240 + (140/2 \text{ or } 70) = 310$ and his percentage will be $44.28 (310 \times 100) / 700$.

19. Application of Orders of Chapter II.—The provisions of paras 4, 5, 6, 11, 12, 13, 14 and *mutatis mutandis* apply to admission under this Chapter also.

U. P. STATE UNIVERSITIES FIRST STATUTES (AGE OF SUPERANNUATION, SCALES OF PAY AND QUALIFICATION OF TEACHERS), 1975¹

In exercise of the powers conferred by sub-section (1) of Section 50 of the Uttar Pradesh State Universities Act, 1973 (President's Act No. 10 of 1973), a re-enacted and amended by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974 (U.P. Act No. 29 of 1974), the Governor is pleased to make the First Statutes of the Universities of Allahabad, Lucknow, Agra Gorakhpur, Kanpur, Meerut, Kumaun, Garhwal, Avadh and Rohilkhand, the Kashi Vidyapith and Sampurnaand Sanskrit Vishwavidyalaya as follows :

First Statutes

1. Short title and commencement.—(1) These statutes may be called the Uttar Pradesh State Universities First Statutes (Age of Superannuation, Scales of Pay and Qualifications of Teachers), 1975.

(2) They shall come into force on August 1, 1975.

2. Definitions.—In these Statutes, unless the context otherwise requires.—

(a) "Act" means the Uttar Pradesh State Universities Act, 1973 amended re-enacted by the Uttar Pradesh Universities (Re-enactment Amendment) Act, 1974;

(b) "New scale of pay" means the scale of pay admissible to a teacher in accordance with the G.O. No. Shi. X (ii) 9045/XV-14 (7)-73, dated December 28, 1974, as amended from time to time and "old scale of pay" means the scale of pay admissible to a teacher before the enforcement of the new scale of pay.

(c) "University" means the University of Allahabad, Lucknow, Agra, Gorakhpur, Kanpur, Meerut, Kumaun, Garhwal, ²[Avadh, Rohilkhand or Bundelkhand], the Kashi Vidyapith or the Sampurnanad Sanskrit Vishwavidyalaya;

(d) other words and expressions used in the Act and not defined in these Statutes shall have the meanings assigned to them in the Act.

3. Age of superannuation of teachers.—(1) Subject to the provisions of Statutes 4, 5, 6 and 7, the age of superannuation of a teacher governed by the new scale of pay shall be sixty years.

(2) The age of superannuation of teachers not governed by the new scales of pay shall, subject to Statute 7, be sixty years.

(3) No extension in service beyond the age of superannuation shall be granted to any teacher after the date of commencement of these Statutes :

³[Provided that if the date of superannuation of a teacher does not fall on June 30, the teacher shall continue in service till the end of the academic

1. Shiksha Anubhag 10, Noti No. 4546/XV-10-75, dated July 25, 1975. Published in U.P. Gazette, Extra., dated 25th July, 1975.

2. Subs. by Noti. No. 1791/XV-10-77, dated 15 April, 1977 (w.e.f. 15-4-1977).

3. Ins. by Noti. No. 1791/XV-10-77, dated 15 April, 1977 (w.e.f. 15-4-1977).

session i.e. June 30 following and he will be treated as on re-employment from the date immediately following the date of his superannuation till June 30 following.]

4. Superannuation and scales of pay of teachers of Allahabad University serving from before the commencement of these Statutes.—(1) This Statute shall apply to the teachers of the University of Allahabad.

(2) Every teacher of the University:—

(a) who has crossed his 60th birthday before the date of commencement of these Statutes shall retire at the age of 62 years, and such teacher shall not be entitled to avail the new scale of pay;

(b) who has not crossed his 60th birthday before the date of commencement of these Statutes, shall opt whether he shall retire—

(i) at the age of 60 years and shall avail the new scale of pay; or

(ii) at the age of 62 years and shall continue to avail the old scale of pay.

(3) The option under sub-clause (b) of clause (2) shall be exercised in Form 1 annexed to these Statutes and shall be submitted to the Finance Officer within a period of one month from the date of commencement of these Statutes or before his 60th birthday, whichever is earlier. The option once exercised shall be final.

(4) Where a teacher fails to exercise the option in accordance with sub-clause (b) of clause (2), he shall be deemed to have opted for the new scale of pay and shall retire at the age of 60 years.

5. Superannuation of teachers of other Universities serving on extension from before the commencement of these Statutes.—(1) This Statute shall apply to the teachers of Universities other than the University of Allahabad.

(2) Every teacher of the University who, on the date of commencement of these Statutes, was serving on extension, beyond the age of superannuation specified in Statute 3, and such extension was granted before the date of such commencement, shall retire on the expiry of the period of extension in accordance with the provisions of the Statutes and Ordinances then in force, but he shall not be entitled to avail the new scale of pay.

6. Superannuation of the teachers of colleges.—The provisions of Statute 5 shall *mutatis mutandis* apply to the teachers of—

(a) every college affiliated to or associated with any University (other than the Sampurnanand Sanskrit Vishwavidyalaya);

(b) every medical college, agricultural college, engineering college or veterinary science college which is a constituent college maintained by any such University.

7. Date of birth for purposes of superannuation.—(1) For determining the age of superannuation or retirement of a teacher in accordance with these Statutes, the date of birth of the teacher as mentioned in the High School certificate or that of any other examination recognised as equivalent thereto, shall be conclusive.

(2) The date of retirement shall be the date immediately preceding the 60th or 62nd birthday of a teacher according as his age of superannuation is 60 or 62 years.

¹[8. Qualifications for Lecturers in the University.—(1) In the case of a University, the following shall be the minimum qualifications for the post of Lecturer in the Faculties of Arts, Commerce, Science and Social Sciences, namely—

- (a) a Doctorate in the subject of study concerned or a published work of a high standard in that subject; and
- (b) consistently good academic record (that is to say, the overall record of all assessments throughout the academic careers of a candidate), with first class or high second class (that is to say, with an aggregate of more than 54 per cent marks) master's degree in the subject concerned or equivalent degree of a foreign university in such subject.

(2) Where the Selection Committee is of opinion that the research work of a candidate, as evidenced either by his thesis or by his published work, is of a very high standard, it may relax any of the qualifications specified in sub-clause (b) of clause (1).

(3) If a candidate possessing the qualification specified in sub-clause (a) of clause (1) is not available or is not considered suitable, a person possessing a consistently good academic record (due weightage being given to M. Phil. or equivalent degree or research work of quality) may be appointed on the condition that he will attain the said qualification (namely, Doctorate or published work is aforesaid) within five years from the date of his appointment :

Provided that where the teacher so appointed fails to attain the prescribed qualification within the said period of five years, he shall not be entitled to yearly increments after such period, until he attains such qualifications.

²[(4) in the case of the Faculty of Law, the minimum qualification for the post of a Lecturer in the University shall be a degree of Master of Laws.]

³[9. (1) No teacher appointed before the commencement of these statutes shall be deemed to be qualified for appointment to the post of Reader or Professor if he does not possess the qualifications prescribed in Statute 8, provided that where the Selection Committee is of opinion that the research work of a candidate, as evidenced by his thesis or by his published work, is of a very high standard, it may relax any of the qualifications specified in sub-clause (b) of clause (1) of Statute 8.

(2) In addition, a candidate for appointment to the post of Reader or Professor shall fulfil any other qualifications laid down in the Ordinances of the University concerned.

1. Statutes 8, 9 and 10 subs. by Noti. 7251/XV-10-75-60 (115)-73, dated 20 October, 1975 (w.e.f. 20-10-1975).

2. Subs. by Noti. No. 1791/XV-10-77, dated 15 April, 1977 (w.e.f. 15-4-1977).

3. Statutes 8, 9 and 10 subs. by Noti. 7251/XV-10-75-60 (115) 73, dated 20 October, 1975 (w.e.f. 20-10-1975).

¹[10. Qualifications for lecturers in affiliated and associated Colleges.—(1) In the case of a college affiliated to or associated with any University other than the Sampurnanand Sanskrit Vishwavidyalaya, the following shall be the minimum qualifications for the post of Lecturer in the Faculties of Arts, Commerce, Science and Social Science, namely—

- (a) a consistently good academic record (that is to say, the overall record of all assessments throughout the academic career of a candidate) with first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree in the subject concerned or equivalent degree of a foreign University in such subject; and
- (b) M. Phil. degree or a recognised degree beyond the Master's level or published work indicating the capacity of a candidate for independent research work.

(2) If a candidate possessing the qualification specified in sub-clause (b) of clause (1) is not available or is not considered suitable, the management of a college may, on the recommendation of the Selection Committee, appoint a candidate possessing consistently good academic record on the condition that he will have to attain the qualification referred to in that sub-clause within a period of five years from the date of his appointment :

Provided that where the teacher so appointed fails to attain such qualification within the said period of five years, he shall not be entitled to yearly increments after such period, until he attains such qualification.]

²[(3) If a candidate holds a doctorate degree in the subject concerned, the Selection Committee may relax the requirement relating to more than 54 per cent marks in the Master's Degree.

(4) In the case of any college affiliated to the University, the minimum qualifications for the post of a Lecturer in the Faculty of Law shall be a degree in Master of Laws.]

³[10-A. In the case of any college affiliated to the University the following shall be minimum qualifications for the post of Principal for a—

(1) *Degree College :*

- (a) a consistently good academic record (that is to say, the overall record of all assessments throughout the academic career of a candidate) with first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree, or an equivalent degree of a foreign University in one of the subjects taught in the college; and
- (b) a doctorate degree in one of the subjects taught in the college, with 10 years' experience of teaching degree classes :

Provided that if a candidate possesses 15 years or more experience of teaching degree classes or 10 years or more experience of teaching postgraduate

1. Subs. by Noti. 7251/XV-10-75-60 (115)-73, dated 20 October, 1975 (w.e.f. 20-10-1975).

2. Ins. by Noti. No. 1791/XV-10-77, dated 15 April, 1977 (w.e.f. 15-4-1977).

3. Ins. by Noti. No. 1890/XV-10-77-60 (36)-76, dated 20 April, 1977.

classes, or if he is or has been a confirmed Principal of four years or more standing of any Degree College, the Selection Committee may relax the requirement of doctorate degree.

(2) *Post-Graduate College :*

- (a) a consistently good academic record (that is to say, the overall record of all assessments throughout the academic career of a candidate) with first or high second class (that is to say, with an aggregate of more than 54 per cent marks) Master's degree, equivalent degree of a foreign University, in one of the subjects taught in the college; and
- (b) a doctorate degree in one of the subjects taught in the college with 7 years' experience of teaching postgraduate classes or 5 years' experience of Principalship of a degree college :

Provided that if a candidate possesses 10 years' experience of teaching postgraduate classes or 20 years or more experience of teaching degree classes or 7 years' experience of Principalship of a Degree College or if he is or has been a confirmed Principal of five years or more standing of any Postgraduate College, the Selection Committee may relax the requirement of doctorate degree.

10-B. When the office of Principal of an affiliated college falls vacant, the Management may appoint any teacher to officiate as Principal for a period of three months or until the appointment of a regular Principal, whichever is earlier. If on or before the expiry of the period of three months, any regular Principal is not appointed or such a Principal does not assume office, the seniormost teacher, in the college shall officiate as Principal of such college until a regular Principal is appointed.]

11. **Overriding effect of these Statutes.**—The provisions of these Statutes shall have effect notwithstanding anything contained in any contract to the contrary, and all Statutes and Ordinances in force on the date immediately before the commencement of these Statutes, in so far as they are inconsistent with these Statutes, shall, with effect from such commencement, stand repealed.

FORM I

[See Statute 4 (2)]

FORM OF OPTION FOR THE TEACHERS OF UNIVERSITY OF ALLAHABAD

I,.....son of Shri, Professor or Reader or Lecturer in the Department of of Allahabad University hereby declare that I opt to :

(i) at the age of sixty years and shall avail the new scale of pay.

Or

(ii) at the age of sixty-two years and shall avail the old scale of pay. I understand that this option shall be final and irrevocable.

Signature

Date

THE UTTAR PRADESH ADMISSION TO EDUCATIONAL INSTITUTIONS (RESERVATION FOR SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES) ACT, 2006¹

(U. P. Act No. 23 of 2006)

(As passed by the Uttar Pradesh Legislature)

An Act to provide for the reservation in admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India, in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizen and for matters connected therewith or incidental thereto

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :

Prefatory Note—Statement of Objects and Reasons.—The State Government have been empowered by the Constitution Ninety-third Amendment to make special provisions regarding admission to the educational institution including private educational institutions, whether aided or unaided by the State other than the minority educational institutions referred to in clause (1) or Article 30 of the Constitution of India in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizen. It was, therefore, decided to make a law to provide for the reservation in admission to the said educational institutions in favour of the said persons.

Since the State Legislature was not in session and immediate Legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Admission to Educational Institution (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Ordinance, 2006 (U.P. Ordinance No. 2 of 2006) was promulgated by the Governor on July 10, 2006.

This Bill is introduced to replace the aforesaid Ordinance.

1. Short title and commencement.—(1) This Act may be called the Uttar Pradesh Admission to Educational Institutions (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 2006.

(2) It shall be deemed to have come into force on July 10, 2006.

2. Applicability.—This Act shall apply to all admissions taking place in Educational Institutions, including Private Educational Institutions, whether aided or unaided by the State, other than the Minority Educational Institutions referred to in clause (1) of the Article 30 of the Constitution of India.

3. Definitions.—In this Act, unless the context otherwise requires,—

1. Received the Governor on September 7, 2006 and published in the U.P. Gazette, Extra., Part I, Section (ka), dated 8th September, 2006.

- (a) *"academic year in relation to an admission"* means a period of twelve months commencing on the first day of July of a calendar year within which the process of admission is initiated;
- (b) *"aided institution"* means a private educational institution, excluding minority institution, receiving recurring grants-in-aid or financial assistance in whole or in part from the State Government or from any body under the control of State Government disbursing grants-in-aid or financial assistance;
- (c) *"general candidate"* means a candidate selected on the basis of merit on an unreserved seat;
- (d) *"head of the institution"* means the President or the Manager or the Secretary of a society running the institution and includes the Director, the Principal or any Administrative Head of the institution;
- (e) *"educational institution"* means--
- (i) a college or a school or an institution, by whatever name called, imparting education approved or recognized by a competent Statutory Body and affiliated to a State University, including a Private University established or incorporated by an Act of the State Legislature or a constituent unit of a deemed to be University defined under Section 3 of the University Grants Commission Act, 1956 imparting education.
 - (ii) a college or a school or an institution, by whatever name called, imparting professional courses, approved or recognized by the Competent Statutory Body leading to the award of a degree, diploma or a certificate, by whatever name called.
- (f) *"Other Backward Classes or citizens"* means the Other Backward Classes or citizens specified in the Schedule-I to the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994;
- (g) *"Private Institution"* means an educational institution not established or maintained by State Government or any Public Body;
- (h) *"Professional Course"* means a course of study notified as a professional course by the Competent Statutory Body leading to the award of a degree, diploma or certificate by whatever name called;
- (i) *"Reserved Seat"* means a seat reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens;
- (j) *"Sanctioned Intake"* means and implies the total number of seats sanctioned by an authority notified by the State Government for admitting students in each course of study in an Institution;
- (k) *"State University"* means a University established or incorporated by an Act of the State Legislature;

(l) "*Unaided Institution*" means a private Educational Institution, not being an Aided Institution;

(m) "*Unreserved Seat*" means a seat other than reserved seats.

4. Reservation in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes.—(1) In admission to educational institutions, including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India, there shall be reservation at the stage of admission in the following percentage of sanctioned intake to which admission is to be made in favour of person belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens, in the academic year—

| | | |
|--|---|-----------------------|
| (a) in the case of Scheduled Castes | — | twenty one per cent |
| (b) in the case of Scheduled Tribes | — | two per cent |
| (c) in the case of Other Backward Classes of citizen | — | twenty-seven per cent |

(2) In respect of any academic year if any vacancy reserved for any category of persons under sub-section (1) remains unfilled, another special admission drive shall be made to fill such vacancy from amongst the person belonging to that category.

(3) If in the special admission drive referred to in sub-section (2) suitable candidates belonging to the Scheduled Tribes are not available to fill the vacancy reserved for them, such vacancy shall be filled by persons belonging to the Scheduled Castes.

(4) Where, due to non-availability of suitable candidates, any of the seats reserved under sub-section (1) remains unfilled even after special admission drive referred to in sub-section (2), or sub-section (3), then such vacancy shall be filled by any other suitable candidate, on the basis of merit.

(5) If a person belonging to any of the categories mentioned in sub-section (1) gets selected on the basis of merit as a general candidate, and if he wants to remain as a general candidate, then he shall not be adjusted against the vacancies reserved for such category under sub-section (1).

5. Responsibility and powers for compliance of the Act.—The State Government may, by a notified order, entrust the Head of the Institution or any officer or employee of the Institution with the responsibility of ensuring the compliance of the provision of this Act.

6. Penalty and withdrawal of affiliation.—(1) Any Head of the Institution or any officer or employee of the institution entrusted with the responsibility under Section 5 wilfully acts in a manner intended to contravene or defeat the purpose of this Act shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) No Court shall take cognizance of an offence under this section except with the previous sanction of the State Government or an officer authorized in this behalf by the State Government by an order.

(3) An offence punishable under sub-section (1) shall be tried summarily by a Metropolitan Magistrate or a Judicial Magistrate of the first class and the provisions of sub-section (1) of Section 262, Section 263, Section 264 and Section 265 of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply.

(4) Where the State Government or any officer or an authority authorised by it is satisfied that any institution has violated any provision of this Act or the rules or the orders made thereunder by the State Government, it may recommend to the appropriate statutory body for the withdrawal of the affiliation of (sic for) recognition of such institution.

7. Power to call for record.—If it comes to the notice of the State Government that any person belonging to any of the categories mentioned in sub-section (1) of Section 4 has been adversely affected on account of non-compliance of the provisions of this Act or the rules made thereunder or the Government orders, it may call for such records from the concerned institution and take such action as it may consider necessary.

8. Admission committee.—The State Government may, by order, provide for nomination of officers for giving representation to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizen in the Admission Committee to such extent and in such manner as may be prescribed.

9. Caste certificate.—For the purpose of reservation provided under this Act, caste certificate shall be issued by such authority or officer as may be notified by the State Government and in such manner and in such form as the State Government may, by order, provide.

10. Removal of difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make such provisions not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty.

11. Protection of action taken in good faith.—No suit, prosecution or any other legal proceeding shall lie against the State Government or any person for anything which is in good faith done or intended to be done, in pursuance of this Act or the rules made thereunder.

12. Power to make rules.—The State Government may, by notification, make rules for carrying out the purpose of this Act.

13. Laying of Order etc.—Every order made under Section 5 and Section 9 shall be laid, as soon as may be, before both the Houses of the State Legislature and the provisions of sub-section (1) of Section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

14. Repeal and saving.—(1) The Uttar Pradesh Admission to Educational Institutions (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Ordinance, 2006 (U.P. Ordinance No. 2 of 2006) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.

THE UTTAR PRADESH PRIVATE PROFESSIONAL EDUCATIONAL INSTITUTIONS (REGULATION OF ADMISSION AND FIXATION OF FEE) ACT, 2006¹

(Act No. 24 of 2006)

(As passed by the Uttar Pradesh Legislature)

An Act to provide for the regulation of admission and fixation of fee in private professional educational institutions and the matters connected therewith or incidental thereto

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :

Prefatory Note—Statement of Objects and Reasons.—The State Government has been empowered by the Constitution Ninety-third Amendment to make special provisions regarding admission to the educational institutions including private educational institutions whether aided or unaided by the State other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizen. Besides, the Ministry of Human Resources, Government of India had suggested that the legislation should also be made for the regulation of admission and fixation of fee in such educational institutions. In the light of the suggestions given by the Ministry of Human Resources, Government of India it has been decided to make law to provide for the regulation of admission and fixation of fee in private educational institutions and the matter connected therewith and incidental thereto.

Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision the Uttar Pradesh Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Ordinance, 2006 (U.P. Ordinance No. 1 of 2006) was promulgated by the Governor on July 10, 2006.

This Bill is introduced to replace the aforesaid Ordinance.

CHAPTER 1

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Uttar Pradesh Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006.

(2) It shall be deemed to have come into force on July 10, 2006.

2. Applicability.—This Act shall be applicable to the private aided or unaided professional educational institutions, excluding minority institutions.

3. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "aided institution" means a private professional educational institution, other than a minority institution receiving recurring financial grant-in-aid or assistance in whole or in part from the State Government or from any body, under the control of State Government disbursing grants-in-aid or financial assistance;

1. Received the Governor on September 7, 2006 and published in the U.P. Gazette, Extra. Part-1, Section (Ka), dated 8th September, 2006.

- (b) "*Committee*" means the Admission and Fee Regulatory Committee constituted under Section 4;
- (c) "*Common Entrance Test*" means an Entrance Test, conducted by the State Government or an Agency authorized by it for admission to a Professional Course, run by a professional educational institution;
- (d) "*Fee*" means all fees including tuition fee and development charges;
- (e) "*general category*" means and implies seats from out of the sanctioned intake of professional educational institution, not being seats in the management category;
- (f) "*management category*" shall mean and imply seats from out of the sanctioned intake allotted by the State Government to the management of the institutions;
- (g) "*minority*" means a minority defined under clause (f) of Section 2 of the National Commission for Minority Educational Institutions Act, 2004 (Act No. 2 of 2005);
- (h) "*minority institution*" means an institution, established and administered by a minority and notified as such by the State Government;
- (i) "*private professional educational institution*" means a professional educational institution not established or maintained by the Central Government, the State Government or any public body;
- (j) "*professional course*" means a course of study notified as a professional course by the State Government;
- (k) "*professional educational institution*" means a College or a School or an Institution by whatever name called, imparting professional education,—
 - (i) affiliated to a State University, including a Private University established or incorporated by an Act of the State Legislature or constituent unit of a deemed to be University defined under Section 3 of University Grant Commission Act, 1956.
 - (ii) approved or recognized by the Competent Statutory Body established by State Government, regulating professional education.
- (l) "*sanctioned intake*" means and implies the total number of seats sanctioned by an authority notified by the State Government for admitting students in each course of study in a professional institution;
- (m) "*senior administrative officer*" means an Officer of the Indian Administrative Service or Provincial Civil Service of Uttar Pradesh;
- (n) "*State University*" means a University established or incorporated by an Act of the State Legislature;
- (o) "*unaided institution*" means a private professional educational institution, not being an aided institution;

- (p) "*University Grants Commission*" means the University Grants Commission established under the University Grants Commission Act, 1956.

CHAPTER II THE COMMITTEE

4. Composition, disqualification and functions.—(1) There shall be a Committee for admission and fee regulation to be constituted in such manner as may be prescribed. The Committee shall be presided over by a person who is or who has been a Senior Administrative Officer of the State or Vice-Chancellor of a Central University or a State University or a deemed to be University; who shall be called the Chairman of the Committee and shall include two other Members having experience in matters of finance or administration.

(2) The State Government shall appoint the Chairman and the Members of the Committee mentioned in sub-section (1).

(3) The term of the Chairman and every Member of the Committee shall be three years from the date of its notification; and, in case of any vacancy arising earlier, for any reason, the State Government shall fill such vacancy for the remainder of the term.

(4) No act or proceedings of the Committee shall be deemed to be invalid by reason merely of any vacancy or any defect in the constitution of the Committee.

(5) No person who is associated with a private aided or unaided institution shall be eligible for being a Member of the Committee.

(6) The Chairman or any Member of the Committee shall be removed, if he performs any act, which in the opinion of the State Government is unbecoming of Chairman or Member of the Committee :

Provided that, no such Chairman or any Member shall be removed by the State Government, without giving him an opportunity of being heard.

(7) The Committee may frame its own procedure in such manner as may be prescribed.

(8) The Committee may require a private aided or unaided professional educational institution or, a deemed to be University or a private University to furnish, by a prescribed date, information as may be necessary for enabling the Committee to determine the fee as prescribed under Section 10 of this Act that may be fixed by the institution in respect of each professional course, and the fee so determined shall be valid for such period as notified by the State Government.

(9) The State Government or the Committee may, if satisfied that a professional educational institution has violated any provisions of this Act or is charging more fee, than as determined under Section 10 of this Act then it will recommend to the appropriate statutory body for the withdrawal of the affiliation or recognition of such institution.

CHAPTER III ADMISSION

5. Eligibility.—The eligibility for admission to a private aided or unaided professional educational institution shall be such as may be notified by the State Government.

6. Allocation of seats.—(1) The State Government may, by notified order, reserve seats out of sanctioned intake, in an unaided professional educational private institution, other than minority institution, under management category.

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, there shall be no reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens in the seats reserved for management category.

7. Manner of admission.—An unaided professional educational institution.—

(a) shall make admission to a seat under the general category, on the basis of the Common Entrance Test, in such manner as may be prescribed by the State Government.

(b) may make admission to a seat reserved under management category, in such manner, as may be prescribed by the State Government, through a notified order.

8. Common entrance test.—In aided professional educational institution, admission to sanctioned intake shall be on the basis of the Common Entrance Test in such manner as may be prescribed.

9. Admission.—(1) Every admission to an aided or unaided educational institution, shall be made in accordance with the provisions of this Act or the rules made thereunder and every admission made in contravention thereof shall be void.

(2) The State Government or the Committee if satisfied that an aided or unaided professional educational institution has taken admission in violation of any provision of this Act or the rules or an order of the State Government issued in this behalf, it may recommend to the appropriate statutory body for the withdrawal of the affiliation or recognition of such institution.

CHAPTER IV

FIXATION OF FEE

10. Factors.—(1) The Committee shall determine, the fee to be charged by a private aided or unaided professional educational institution having regard to—

- (i) the nature of the professional course;
- (ii) the available infrastructure;
- (iii) a reasonable surplus required for growth and development of the professional institution;
- (iv) the expenditure on administration and maintenance;
- (v) the expenditure on teaching and non-teaching employees of the institution;
- (vi) any other relevant factor.

(2) The Committee, shall give the institution an opportunity of being heard before fixing any fee :

Provided that no such fee, as may be fixed by the Committee, shall amount to profiteering or commercialization of education.

**CHAPTER V
MISCELLANEOUS**

11. Appeals.—The State Government shall appoint an Appellate Authority, headed by a person who has been a Judge of the High Court, before which a person or professional institution aggrieved by an order of the Committee may file an appeal, within a period of 30 days, from the date of receipt of such an order.

12. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

13. Power to make rules.—The State Government may, by notification, make rules for carrying out the purposes of this Act.

14. Power to make regulations.—(1) The State Government or any authority authorized by the State Government may, by notification, make regulations consistent with this Act and the rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely—

- (a) the constitution and working and, terms and conditions of the Committee;
- (b) the manner or criterion of determination of fee to be charged by a Private Professional Educational Institution from the students;
- (c) the fees to be charged by the Private Professional Educational Institution from the students.

15. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by notified order, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient, for removing the difficulty.

(2) Every order made under this section shall, as soon as may after it is made, be laid before each House of Legislature.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or the Appellate Authority, or Chairman and Members of the Committee for anything, which is in good faith done or intended to be done under this Act.

17. Repeal and saving.—(1) The Uttar Pradesh Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Ordinance, 2006 (U.P. Ordinance No. 1 of 2006) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.