**In the High Court of Punjab and Haryana at Chandigarh**

**1.** **LPA No. 829 of 2022 (O&M)**
**Reserved on: 03.9.2024**
**Date of Decision: 23.9.2024**

Jagjeet Singh and others .....Appellants

Versus

State of Punjab and others .....Respondents

**2.** **LPA No. 831 of 2022 (O&M)**

Amandeep Kaur and others .....Appellants

Versus

Harmesh Singh and others .....Respondents

**3.** **LPA No. 832 of 2022 (O&M)**

Harwinder Kaur .....Appellant

Versus

Sameera Dhuria and others .....Respondents

**4.** **LPA No. 976 of 2022 (O&M)**

Jaspreet Kaur and others .....Appellants

Versus

State of Punjab and others .....Respondents

**5.** **LPA No. 928 of 2022 (O&M)**

Karamjit Singh and others .....Appellants

Versus

State of Punjab and others .....Respondents


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**6.** **LPA No. 89 of 2023 (O&M)**

State of Punjab and another .....Appellants

Versus

Harmesh Singh and others .....Respondents

**7.** **LPA No. 149 of 2023 (O&M)**

Rajeev Kumar and others .....Appellants

Versus

State of Punjab and others .....Respondents

**8.** **LPA No. 1024 of 2022 (O&M)**

Sunil Kumar .....Appellant

Versus

State of Punjab and others .....Respondents

**9.** **LPA No. 214 of 2022 (O&M)**

Suveer Singh and others .....Appellants

Versus

State of Punjab and others .....Respondents

**10.** **LPA No. 677 of 2023 (O&M)**

State of Punjab and others .....Appellants

Versus

Manraj Singh and others .....Respondents

**11.** **LPA No. 812 of 2023 (O&M)**

Jatinder Singh .....Appellant

Versus

State of Punjab and another .....Respondents


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**12.** **LPA No. 713 of 2023 (O&M)**

State of Punjab and another .....Appellants

Versus

Sameer Dhuria and others .....Respondents

**13.** **LPA No. 762 of 2023 (O&M)**

State of Punjab and another .....Appellants

Versus

Sangeet Kumar and others .....Respondents

**14.** **LPA No. 768 of 2023 (O&M)**

State of Punjab and another .....Appellants

Versus

Rahul Badru and others .....Respondents

**15.** **LPA No. 542 of 2023 (O&M)**

Hardeep Kaur Saini and others .....Appellants

Versus

State of Punjab and others .....Respondents

**16.** **LPA No. 544 of 2023 (O&M)**

Hardeep Kaur Saini and others .....Appellants

Versus

State of Punjab and others .....Respondents

**17.** **LPA No. 607 of 2023 (O&M)**

Hardeep Kaur Saini and others .....Appellants

Versus

State of Punjab and others .....Respondents


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**18.** **LPA No. 2098 of 2024 (O&M)**
**Reserved on: 10.9.2024**

Sherry .....Appellant

Versus

State of Punjab and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**
**HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

***Argued by***: Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Brijesh Khosla, Advocate and
Ms. Shreya Kaushik, Advocate for the appellants
(in LPA-829-2022).

Mr. Anupam Gupta, Sr. Advocate with
Mr. Gautam Pathania, Advocate and
Mr. Sukhpal Singh, Advocate and
Mr. Amrik Singh, Advocate
for the appellants (in LPA-149-2023).

Mr. R.S. Bains, Sr. Advocate with
Mr. Anmoldeep Singh, Advocate and
Mr. Amarjeet Singh, Advocate
for the appellants (in LPAs-832, 976 and 928-2022).

Mr. Puneet Gupta, Advocate and
Mr. Anil Rana, Advocate and
Mr. Ravindra Singh, Advocate
for the appellants (in LPA-214-2023, LPA-542-2023,
LPA-544-2023 & LPA-607-2023).

Mr. D.S. Patwalia, Sr. Advocate with
Ms. Alisha Sharda, Advocate and
Mr. Vivek Vikas Singh, Advocate
for performa respondents No.7 to 28, 30 to 98, 100 to 102,
104 to 115, 117 to 129 and 131 to 162 (in LPA-89-2023).

Mr. Shiv Kumar Sharma, Advocate
for the appellant (in LPA-831-2022).

Mr. Saurab Arora, Advocate
for the appellant (in LPA-812-2023).

Mr. Anil Rana, Advocate
for the appellant (in LPA-2098-2014).

Ms. Anu Chatrath, Addl. A.G., Punjab.


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Mr. Nitish Bansal, Advocate
for respondent No.4 (in LPA-831-2022)
Mr. Mohd. Sultan, Advocate, for
Mr. Vivek Sharma, Advocate
for the respondent (in LPA-831-2022 & LPA-829-2022
LPA-928-2022 & LPA-89-2023).

Mr. H.S. Saini, Advocate
for respondent No.1, 2, 4, 5, 8 and 10 (in LPA-677-2023).

Mr. M.K. Dogra, Advocate
for respondent-GNDU (LPA-607-2023).

Ms. Isha Goyal, Advocate
for respondent-GNDU (in LPA-762-2023 & LPA-768-2023).

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**SURESHWAR THAKUR, J.**

1. Since all the appeals (supra) arise from a common verdict, therefore, all the appeals (supra) are amenable to be decided through a common verdict being made thereons.

2. The appeals (supra) have been preferred by the appellants challenging the order dated 8.8.2022 passed by the learned Single Bench of this Court in CWP No. 22446 of 2021 and other connected cases, whereins, the writ petitioners sought judicial review of the recruitment process relating to appointment of 1091 Assistant Professors and 67 Librarians in Government Colleges of Punjab. In the said writ petitions, the hereinafter extracted prayers were made:-

> *(1) to quash the impugned Memo. dated 18.10.2021 for filling up 1091 posts of Assistant Professors & 67 Librarians by two Selection Committees of State Universities;*
> *(2) to quash the impugned Public notice dated 19.10.2021 along with 33 advertisements (No. 1/2021 to 33/2021) for aforesaid posts;*
> *(3) to quash the selection process having been vitiated in law;*


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*(4) to direct the official respondents for filling-up all vacant posts of Assistant Professors & Librarians in Government Colleges of Punjab through PPSC as per Service Rules and UGC Regulations;*

*(5) to restrain the respondents from finalizing ongoing selection process as well as consequent appointments for the posts in question;*

*(6) to issue any other appropriate writ, order or direction as this Court deems appropriate in view of the facts and circumstances of present cases.*

***Factual background***

3. The State of Punjab, through Secretary, Department of Higher Education & Languages, vide Memo dated 18.10.2021, conveyed to Director, Public Instructions (Colleges), "DPI, Colleges" for recruitment of 1091 Assistant Professors & 67 Librarians on the basis of written test to be conducted by two different Selection Committees of State Universities, i.e. (i) GNDU, Amritsar; and (ii) PU, Patiala.

4. As per aforesaid Memo, "Part-Time/Guest Faculty/Contractual teachers working in the Government run Colleges shall be given relaxation in upper age limit to the extent of the period they have worked as such." It is further stipulated that "such teachers shall be given weightage of one mark per year subject to maximum of five marks in respect of experience gained by them."

5. In pursuance of above memo, the Director, Higher Education, Punjab "DHE" issued a Public Notice on 19.10.2021 inviting online applications for various posts of Assistant Professors of various subjects and Librarians. According to the memo (supra), selection process for 16 subjects was assigned to GNDU, Amritsar; whereas, remaining 17 subjects, including Librarians were entrusted to PU, Patiala. On that very day, i.e. 19.10.2021,


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the Department sent a proposal to the Punjab Public Service Commission (for short '*the PPSC*') for sending back the earlier requisition of 931 Assistant Professors & 50 Librarians, for filling-up the same through Departmental Selection Committee. However, vide letter dated 16.11.2021 the said proposal was declined by the PPSC, on the premise that "taking posts out of purview of the Commission is a gross violation of the Constitution which needs to be avoided".

6. Subsequently, written test for selection to the posts in questions was held by both the Selection Committees between November 20 to 22, 2021 and the results thereof stood declared on 28.11.2021.

7. On that very day, i.e 28.11.2021, a clarification was issued by Department to the effect that "benefit of giving marks for experience is available only to the teachers of Government Colleges of Punjab." and "the claim of the teachers from other States is not maintainable." It was further clarified that "Guest Faculty, Part-Timers and Contractual Teachers, who had worked in Government College of Punjab, but presently are not working in the Government Colleges, as such, are also entitled for the benefit of experience of the period for which they had worked in the Punjab Government Colleges."

8. Thereafter the appointment orders were issued in favour of 607 candidates on 2.12.2021 and 3.12.2021 and all of them submitted their joining in the offices concerned. After joining of above 607 candidates, the Department issued another corrigendum on 18.12.2021, for withdrawing weightage of 05 marks to Part Time/Guest Faculty/Contractual teachers, on account of experience, while saying that the entire selection would be based upon merit of the written test only. Later on vide notification dated


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26.3.2002, the Government of Punjab, Department of Personnel, amended Punjab Public Service Commission (Limitation of Functions), Regulations, 1955, while taking out 1091 posts of Assistant Professors and 17 posts of Librarians from the purview of PPSC.

***Reasons recorded by the learned Single Judge while allowing the writ petitions***

9. The learned Single Judge, while allowing the writ petitions (supra), thus in the relevant paragraphs, paragraphs whereof become extracted hereinafter, has assigned the following reasons.

> *"62. This court will also not hesitate to observe that entire exercise has been done just as a camouflage for lending credence to their actions by the Department. The record is so terribly inter-mixed that it was very difficult to correlate the files with each other; as some of the original papers are not available and only photocopies have been made part thereof. There are cuttings/overwritings on top of few pages of photocopies, yet made as the basis for the vital decision. It was also noticed that some important notings are not matching with each other due to inherent variation of dates, months and even year.*
>
> *63. No doubt, both sides argued extensively on Article 320 as well as PPSC Regulations with regard to their applicability as mandatory or directory. But, as already noticed, the Notification dated 26.03.2022, for taking out 1091 posts of Assistant Professors & 17 Librarians from the purview of PPSC has been made applicable with retrospective effect; however, there is no such provision under law for enabling the government to proceed in such a manner. A fortiori, the Punjab Government Instructions contained in para 12 (Part-III-A) of the PPSC Regulations, clearly stipulate that "(T)the question as to the method of recruitment to be followed in any particular case should be carefully considered in the first instance and once a reference is made to fill a post by direct recruitment, it should not be withdrawn save for exceptional reasons. Further, in cases, where*


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*in the absence of any service rules, a reference to the Commission is required and if it is found necessary to change the mode of recruitment, the reasons justifying such a step should be fully explained to the Commission". On the other hand, in the present case, no reason at all, much less to say exceptional reasons, is discernable for adopting such an unusual course, when PPSC has even engaged the subject experts for preparing syllabus to conduct examination for 931 posts of Assistant Professors.*

*64. Truly speaking, the notification dated 26.03.2022 is not for taking out the posts from purview of the PPSC; rather it amounts to withdrawal of the already pending requisitions dated 15.01.2021 & 29.01.2021, which were at advance stage. In such a situation, if the course adopted by Government is allowed to go ahead, then it would be total disrespect to the Constitutional Body i.e. PPSC also. Therefore, taking into consideration the facts and circumstances discussed above, the question of mandatory or directory application of Article 320; and/or the PPSC Regulations shall pale into insignificance.*

*65. Although, it was also argued by the respondents that Government has full power to constitute the Selection Committee of their choice; until, there is some specific legal provision to the contrary, but that is also not helpful to them. No doubt, the Government is empowered to constitute the Selection Committee, but that power is coupled with a duty to proceed according to law as well as to show fairness in their action. Thus, keeping in view this aspect of the matter, Government is not only expected to follow their own order dated 30.07.2013 & decision dated 15.10.2020; order of Honble Supreme Court dated 02.12.2014; UGC Regulations; decision dated 17.09.2021 by the Council of Ministers, duly conveyed to the Governor on 18.09.2021; but also show respect to the PPSC for maintaining constitutional values.*

*66. As already discussed, the rules of 1976 are silent about the selection criteria and the Government of Punjab, vide order dated 30.07.2013, decided that for appointment to the post of Assistant Professor in Government colleges of Punjab, the API scores as per UGC Regulations shall be applicable. Thus, the Government*


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*has already consciously decided that appointments are to be made while taking into consideration the API score of candidate(s) for assessing their suitability. Even otherwise, it is well settled that where rules are silent, the same can be supplemented by way of executive instructions and such a course was duly approved by Hon'ble Supreme Court in* ***Sant Ram Sharma Vs. State of Rajasthan and another 1967 AIR 1901****; for reference, the relevant part is extracted as under:-*

> *….It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed."*

*Concededly, till date, the order dated 30.07.2013 has not been withdrawn; rather same is still in force. Thus, in such a scenario, the UGC Regulations specifying the method of selection by applying the API score of candidate(s) for assessing their suitability is very much applicable and cannot be ignored by the quarter concerned. In other words, so long as the order dated 30.07.2013 is in vogue, the UGC Regulations to the extent where rules of 1976 are silent, would be applicable with full force and binding upon all concerned, including the Government.*

*However, the Department while issuing the impugned Memo. dated 18.10.2021 has laid down the selection criteria on the basis of written test as well as granting weightage of five marks (one mark for each year) for experience to Part-time/Guest Faculty/Contractual teachers and as such, the same is not legally sustainable being incompatible with the UGC Regulations.*

*67. Although, after completion of the selection process, the Department has issued a corrigendum; thereby withdrawing the weightage of five marks to Part Time/Guest Faculty/contractual teachers on 18.12.2021, but at such a belated stage, it would be of no help; rather this novel step has been taken just to frustrate the purpose of filing the present writ petitions."*

*x x x x*

*"(73) This Court is very well conscious that quashing of the*



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*impugned recruitment process may cause great hardship to the selectees on the basis of this illegal process, but it cannot be ignored that entire exercise has been conducted in total disregard of the rule of law and in case, the same is allowed to remain alive, that would be travesty of justice.*

*(74) Consequently, writ petitions are allowed to the extent that:*

*(i) Memo No. HED-EDU10APPT/15/2021-6edu/2104 dated 18.10.2021;*

*(ii) Public notice dated 19.10.2021;*

*(iii) All 33 advertisements (Nos. 1/2021 to 33/2021) dated 19.10.2021 along with entire selection process, including the consequent appointments as well as posting orders are quashed and set-aside.*

*(iv) The Employment Generation, Skill Development & Training Department, Government of Punjab, shall upload the letter dated 15.10.2020 on its official website forthwith, if not already done.*

*(v) In view of the larger public interest as well as taking into consideration the observations made by Hon'ble Supreme Court vide order dated 02.12.2014, the quarter concerned shall proceed in the matter expeditiously for filling up the vacant posts of Assistant Professors & Librarians for Government Colleges in the State of Punjab, without any further delay."*

***Common submissions of the learned counsels for the appellants***

10. The learned counsels for the appellants submit that-

(i) There is no bar in the Punjab Educational Service (College Cadre) (Class II) Rules, 1976 (for short 'the 1976 Rules') and in the 2010 UGC Regulations relating to the grant of weightage in experience.

(ii) Be that as it may, it is argued, that the said weightage of marks to experience became withdrawn, whereas, only to the notch of marks obtained in the written tests, thus became assigned credit. Consequently they argue, that when on any purported assigning of weightage to experience,


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thus no discrimination became perpetrated vis-a-vis the present respondents nor when therebys the embarked upon the recruitment process becomes vitiated, therefore, the said has no consequential effect.

(iii) The benefit of giving marks of experience is available only to the part time/guest faculty/contractual teachers of the Government Colleges of Punjab and the claim of the teachers from other states is not maintainable, and, that the said fact was also clarified vide clarification dated 28.11.2021 issued by the department.

(iv) The act of issuing the order dated 18.12.2021 is impermissible in law, as the same has been issued after the issuance of the advertisement, besides after the declaration of result and, moreover after the issuance of appointment letter. Resultantly since therebys the said order is non speaking, and, has been passed in violation of the principles of natural justice, despite the fact that in view of the supra, the appointees/the present appellants become visited with grave civil consequences. Consequently, it is argued that the impugned letters are required to be quashed and set aside. Reliance in respect of the above regard has been placed on the judgments rendered by the Apex Court in case titled as ***Tej Prakash Pathak and others versus Rajasthan High Court and others reported in (2013) 4 SCC 540***, whereins in the relevant paragraphs, it has been expostulated that post the initiation of recruitment process, rather rules of the game are not required to be changed, as untenably done. Therefore, it is argued, that since post the completion of selection process, rather even post the issuance of appointment letters, the respondents proceeded to visit the civil consequences (supra) upon the present appellants, despite no adherence being made to the principles of natural justice. In sequel, it is argued, that the impugned letters are required


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to be quashed and set aside.

> "T*he rules of the game the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced*
>
> ***Maharashtra State Road Transport Corporation and Others v. Rajendra Bhoimrao and others [(2001)10 SCC 51 para 5)"***
>
> *"changing the rules of the game after the game was played is clearly impermissible*
>
> ***(K. Manjushree v. State of Andhra Pradesh and Another, 2008(2) S.C.T. 6 : (2008)3 SCC 512, Para 27)"***

(v) The candidates challenging the provisions of weightage of experience rather becoming estopped by their own act and conduct, as they have unsuccessfully participated without any protest, thus in the entire selection process. In the above regard, reliance has been placed on a judgment rendered by the Apex Court in a case titled as ***Dr. (Major) Meeta Sahai versus State of Bihar*** reported in ***(2019) 20 SCC 17***. The relevant paragraphs of the said verdict become extracted hereinafter.

> *"17. It is well settled that the principle of estoppel prevents a candidate from challenging the selection process after having failed in it as iterated by this Court in a plethora of judgements including* ***Manish Kumar Shahi v. State of Bihar, (2010) 12 SCC 576****, observing as follows:*
>
> > *"16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection The appellant invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission This conduct of the appellant clearly disentitles him from questioning the*


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*selection and the High Court did not commit any error by refusing to entertain the writ petition"*

*The underlying objective of this principle is to prevent candidates from trying another shot at consideration, and to avoid an impasse wherein every disgruntled candidate, having failed the selection, challenges it in the hope of getting a second chance.*

*18. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process."*

(vi) The Union Grant Commission Act, 1956 (for short 'the UGC Act') has been promulgated to make provisions for coordination and determination of educational standards in Universities and not in colleges.

(vii) Even though the recruitments, as were made to the advertised posts, were not made in consultation with the PPSC, however it is argued, that since in a verdict recorded by the Apex Court rendered in case titled as ***State of U.P. versus Manbodhan Lal Srivastava***, reported in ***AIR 1957 SC 912***, whereins in the relevant paragraphs, paragraphs whereof become extracted hereinafter, thus an expostulation of law is carried to the extent, that the word "shall" which occurs in Article 320 (3) of the Constitution of India, thus is to be not construed in a mandatory sense, but rather is to be construed in a directory sense. Therefore, it is argued, that the handing overs of the selection process to the selection committee(s) concerned, after snatching the said selection process from the PPSC, is neither unlawful nor is militative against the provisions as carried in Article 320(3) of the


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Constitution.

> "6. *Article 320(3)(c) is in these terms:*
>
> *320(3):" The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted-*
>
> *(a).....*
>
> *(b).....*
>
> *(c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relat- ing to such matters; ".*
>
> *7. Article 320 does not come under Chapter I headed Services "*
>
> *of Part XIV. It occurs in Chapter 11 of that part headed "Public Service Commissions."Articles 320 and 323 lay down the several duties of a Public Service Commission. Article 321 envisages such " additional functions " as may be pro- vided for by Parliament or a State Legislature. Articles 320 and 323 begin with the words*
>
> *"It shall be the duty and then proceed to prescribe the various duties and functions of the Union or a State Public Service Commission, such as to conduct examinations for appointments; to assist in framing and operating schemes of joint recruitment; and of being consulted on all matters relating to methods of recruitment or principles in making appointments to Civil Services and on all disciplinary matters affecting a civil servant.*
>
> *Perhaps, because of the use of the word "shall " in several parts of Art. 320, the High Court was led to assume that the provisions of Art. 320(3)(c) were mandatory, but, in our opinion, there are several cogent reasons for holding to the contrary. In the first place, the proviso to Art. 320, itself, contemplates that the President or the Governor, as the case may be,*
>
> *"may make regulations specifying the matters in which either generally, or in any particular class of case or in particular circumstances, it shall not be necessary for a Public Service Commission to be consulted."*
>
> *The words quoted above give a clear indication of the intention of the Constitution makers that they did envisage certain cases or classes of cases in which the Com. mission need not be consulted. If the provisions of Art. 320 were of a mandatory character, the Constitution would not have left it to the discretion of the Head of the Executive Government to undo those provisions by making regulations to the contrary.*
>
> *If it had been intended by the makers of the Constitution that consultation with the Com- mission should be mandatory, the proviso would not have been there, or, at any rate, in the terms in which it stands. That does not amount to saying that it is open to the Executive Government completely to ignore the existence of the Commission or to pick and choose cases in which it may or may not be consulted.*
>
> *Once, relevant regulations have been made, they are meant to be followed in letter and in spirit and it goes without saying that consultation with the Commission on all disciplinary matters*



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*affecting a public servant has been specifically provided for, in order, first, to give an assurance to the Services that a wholly independent body, not directly concerned with the making of orders adversely affecting public servants, has considered the action proposed to be taken against a particular public servant, with an open mind; and, secondly, to afford the Government unbiased advice and opinion on matters vitally affecting the morale of public services.*

*It is, therefore, incumbent upon the Executive Government, when it proposes to take any disciplinary action against a public servant, to consult the Commission as to whether the action proposed to be taken was justified and was not in excess of the requirements of the situation.*

*8. Secondly, it is clear that the requirement of the consultation with the Commission does not extend to making the advice of the Commission on those matter, binding on the Government. Of course, the Government, when it consults the Commission on matters like these, does it, not by way of a mere formality, but, with a view to getting proper assistance in assessing the guilt or otherwise of the person proceeded against and of the suitability and adequacy of the penalty proposed to be imposed.*

*If the opinion of the Commission were binding on the Government, it may have been argued with greater force that non-compliance with the rule for consultation would have been-fatal to the validity of the order proposed to be passed against a public servant. In the absence of such a binding character, it is difficult to see how non-compliance with the provisions of Art. 320(3)(c) could have the effect of nullifying the final order passed by the Government.*

*9. Thirdly, Art. 320 or the other articles in Chapter II of Part XIV of the Constitution deal with the constitution of the Commission and appointment and removal of the Chairman or other members of the Commission and their terms of serv- ice as also their duties and functions. Chapter II deals with the relation between Government and the Commission but not between the Commission and a public servant.*

*Chapter II containing Art. 320 does not, in terms, confer any rights or privileges on an individual public servant nor any constitu- tional guarantee of the nature contained in Chapter I of that Part, particularly Art. 31 1. Article 31 1, therefore, is not, in anyway, controlled by the provisions of Chapter II of Part XIV, with particular reference to Art. 320. The question may be looked at from another point of view. Does the Constitution provide for the contingency as to what is to happen in the event of non-compliance with the requirements of Art. 320(3)(c) ? It does not, either in express terms or by implication, provide that the result of such a non-compliance is to invalidate the proceedings ending with the final order of the Government.*

*x x x x*

*13.* ***In view of these considerations, it must be held that the provisions of Art. 320(3)(c) are not mandatory and that non-compliance with those provisions does not afford a cause of action to the respondent in a court of law****. It is not for this Court further to consider what other remedy, if any, the respondent has. Appeal No.*


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*27 is, therefore, allowed and appeal No. 28 dismissed. In view of the fact that the appellant did not strictly comply with the terms of Art. 320(3)(c) of the Constitution, we direct that each party bear its own costs throughout."*

(viii) Moreover, when in paragraph 13 thereof, para whereof becomes extracted hereinabove, it becomes expounded that since the mandate of Article 320(3) is not loaded with mandatory overtones, rather is ingrained with a directory overtone, therebys even if there is any non compliance theretos, at the instance of the respondents concerned, therebys the said non compliance yet does not vitiate the selection process. Moreover, the learned counsels submit, that since the helmsmanship of the respective selection bodies, became assigned respectively to the Vice Chancellor of the Guru Nanak Dev University, Amritsar and to the Vice Chancellor of the Punjabi University, Patiala, whose respective academic excellence rather remains unchallenged. Moreover when neither there is any allegation qua the selection process being tainted, nor when the said allegation becomes proven. Reusultantly it is argued, that it was inappropriate for the learned Single Judge to render a finding that the selection process was vitiated, thus only on the ground that PPSC, did not become consulted, whereas, there was no preemptory necessity of any consultation being made with the PPSC.

(ix) Mr. Rajiv Atma Ram, Senior Advocate, has argued that the UGC regulations are not binding upon the State. In the making of said made submission, he has placed reliance on a judgment rendered by the Apex Court in case titled as ***Kalyani Mathivanan versus K.V.Jeyaraj and others*** reported in ***2015 ALL SCR 1753***. The relevant paragraph of the judgment (supra) becomes extracted hereinafter.

"*44. In view of the discussion as made above, we hold:*

*(i) To the extent the State Legislation is in conflict with Central Legislation including sub-ordinate legislation made by the Central Legislation under Entry 25 of the Concurrent List shall be*


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*repugnant to the Central Legislation and would be inoperative.*

*(ii) The UGC Regulations being passed by both the Houses of Parliament, though a sub-ordinate legislation has binding effect on the Universities to which it applies.*

*(iii)UGC Regulations, 2010 are mandatory to teachers and other academic staff in all the Central Universities and Colleges thereunder and the Institutions deemed to be Universities whose maintenance expenditure is met by the UGC.*

*(iv) UGC Regulations, 2010 is directory for the Universities, Colleges and other higher educational institutions under the purview of the State Legislation as the matter has been left to the State Government to adopt and implement the Scheme.*

*Thus, UGC Regulations, 2010 is partly mandatory and is partly directory.*

*(v) UGC Regulations, 2010 having not adopted by the State Tamil Nadu, the question of conflict between State Legislation and Statutes framed under Central Legislation does not arise. Once it is adopted by the State Government, the State Legislation to be amended appropriately. In such case also there shall be no conflict between the State Legislation and the Central Legislation.*

(x) The learned senior counsel has further placed reliance on a judgment rendered by the Apex Court in case titled as ***Jagdish Prasad Sharma etc.*** versus ***versus State of Bihar and others*** reported in ***2013(8) SCC 633***. The relevant paragraph of the judgment (supra) becomes extracted hereinafter.

*"57. To some extent there is an air of redundancy in the prayers made on behalf of the respondents in the submissions made regarding the applicability of the scheme to the State and its universities, colleges and other educational institutions. The elaborate arguments advanced in regard to the powers of the UGC to frame such Regulations and/or to direct the increase in the age of teachers from 62 to 65 years as a condition precedent for receiving aid from the UGC, appears to have little relevance to the actual issue involved in these cases. That the Commission is empowered to frame Regulations under Section 26 of the UGC Act, 1956, for the promotion and coordination of university education and for the determination and maintenance of standards of teaching, examination and research, cannot be denied. The question that assumes importance is whether in the process of framing such Regulations, the Commission could alter the service conditions of*


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> *the employees which were entirely under the control of the States in regard to State institutions. The authority of the Commission to frame Regulations with regard to the service conditions of teachers in the centrally- funded educational institutions is equally well established. As has been very rightly done in the instant case, the acceptance of the scheme in its composite form has been left to the discretion of the State Governments. The concern of the State Governments and their authorities that the UGC has no authority to impose any conditions with regard to its educational institutions is clearly unfounded. There is no doubt that the Regulations framed by the UGC relate to Entry 66 List I of the Constitution in the Seventh Schedule to the Constitution, but it does not empower the Commission to alter any of the terms and conditions of the enactments by the States under Article 309 of the Constitution. Under Entry 25 of List III, the State is entitled to enact its own laws with regard to the service conditions of the teachers and other staff of the universities and colleges within the State and the same will have effect unless they are repugnant to any central legislation."*

(xi) Therefore, he has argued, that since the UGC regulations are not binding, resultantly the regimen regulating the recruitment process became embodied in Annexure P-2 (in LPA-829-2022). Consequently, he has argued, that the UGC regulations dated 18.7.2018, as embodied in Annexure P-14 (in LPA-829-2022) when never became adopted by the Council of Ministers in the meeting, held on 17.9.2021, thereby the recruitment process was required to be governed by Annexure P-2.

(xii) Consequently, he has argued that since the UGC regulations are not preemptorily binding upon the educational institutions run by the respondent concerned, especially when all matters pertaining to the educational institutions, rather run under the auspices of the State Governments concerned, but are required to be governed by the regimen established by the State Governments concerned. Moreover, when educational institutions concerned, are left open to be governed by the


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apposite legislation becoming passed by the State Legislative Assembly. In consequence, though he has argued, that since the subject (supra) falls in the concurrent list, therebys in the event of any apposite repugnancy emanating inter se the State Legislation with the Union Legislation, thereupon, the governing regimen would be the law passed by the Parliament. Therefore, he has also argued, that since the apposite said law passed by the State Legislature when is unrepugnant to a law passed by the Union Parliament, thus therebys the law enacted by the State Legislature, may continue to hold the field. However, yet if the State Government concerned, adopts the regimen established by the UGC, therebys the said made adoption both controls and overrides the State Legislation or the thereunders made rules in the exercise of powers of subordinate legislation.

(xiii) He has further argued, that irrespective of the above, the UGC regulations are embodied only in the apposite notification issued by the Government of India, therebys when the said issued notification, is but merely an executive fiat and is not a law enacted by the Union Parliament, therebys also there is no issue relating to the arousal of the apposite inter se repugnancy. Contrarily, he has argued that unless the apposite adoption took place, thereupons the legal sanctity is endowable to the 1976 Rules, wherebys the 1976 Rules holds sway and clout for governing and controlling the selection process.

(xiv) Moreover, he has further reiteratedly argued, that since Annexure P-14 (LPA No. 829 of 2022) became never adopted, thereupon rather Annexure P-2 (LPA No. 829 of 2022) holding the field. In addition, he has vociferously argued, that since Annexure P-2 makes a detailed narrative about the eligibility criteria to be possessed by the aspirants


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concerned, therebys it was inappropriate for the learned Single Judge concerned, to hold that the eligibility criteria did not become fixed in the 1976 Rules, wherebys he has been untenably led to declare the selection process to be tainted or vitiated.

(xv) Furthermore, the learned senior counsel has argued, that the Council of Minister's decision dated 17.9.2021 was not a conscious one, as they were unaware qua the 2010 UGC Regulations, adopted on 30.7.2013, thus becoming repealed by the 2018 UGC Regulations. Therefore, as such it was the 2018 UGC Regulations which were but to be adpopted. Since the 2018 UGC Regulations never became adopted, therebys the adoption of the repealed/2010 UGC Regulations, have no consequential effect, nor therebys the selection process gets vitiated, thus on the purported ground that therebys rather no deference was required to be meted to the 1976 Rules. Moreover, the said decision was limited to 160 posts of Assistant Professors and to the 17 posts of Librarian in the newly established government colleges.

***Submissions on behalf of the learned State counsel***

11. The learned State counsel has argued that the UGC regulations are the guidelines/norms for the State Government and the final choices are with the State Government to incorporate them in their rules.

***Inferences of this Court***

12. The relevant provisions of the 1976 Rules become extracted hereinafter.

> *"**1. Short title, commencement and application**:-*
> *(1) These rules may be called the Punjab Educational Service (College Cadre) (Class II) Rules, 1976.*
> *(2) They shall be deemed to have come into force with effect from Ist day of April, 1975.*


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*(3) They shall apply to all persons holding posts specified in Appendix "A" to these rules.*

***2: Definitions**:*

*In these rules, unless the context otherwise requires,--*

*(a) "Commission" means the Punjab Public Service Commission;*

*(b) "direct recruitment" means an appointment made otherwise than by promotion;*

*(c) "Government" means the Punjab Government in the Education Department;*

*(d) 'Recognised university' means-*

*(i) any university incorporated by law in India.*

*(ii) the Punjab, Sind or Dacca University in the case of degree, diploma or certificate obtained as a result of examination held by any of these Universities before the 15th August, 1957, or*

*(iii) any outer university which is declared by the Government to be recognised university for the purpose of these rules; and*

*(e) "Service" means the Punjab Educational Service (College Cadre) Class II.*

***Rule 3: Number and character of posts:***

*The Service shall comprise the posts shown in Appendix "A" to these rules: Provided that nothing in these rules shall affect the inherent right of the Government to make additions to, or reductions in, the number of such posts or create new posts with different designations and scales of pay, whether permanently or temporarily….*

***Rule 5: Appointing Authority:***

*All appointments to the Service shall be made by the Government…*

***Rule 8: Age:***

*No person, who is more than thirty-five years of age, shall be appointed to a post in the Service by direct recruitment.*

***Rule 9**: **Qualifications:***

*(1) No person shall be appointed to the service by direct recruitment unless he possesses the educational qualifications, professional training and other qualifications specified in Appendix "B" for various posts.*

*(2) A person appointed to a post in the Service by direct*



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*recruitment should possess knowledge of Punjabi of Matriculation or its equivalent standard failing which he shall have to acquire the requisite knowledge within a period of six months of his appointment after which he shall be required to pass a test of the aforesaid standard as may be specified by the Government otherwise his services shall be liable to termination. Rule 10: Method of recruitment: All posts in the Service shall be filled by direct recruitment.*

***Rule 19: Power to relax****:*

*Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provision of these rules in respect of any class or category of persons."*

13. The entire lis hinges upon the factum whether the UGC Regulations of 2018 did or did not become adopted. Imperatively for fathoming the above factum probandum, it is thus necessary to extract the minutes of the meeting of the Council of Ministers, which became held on 17.9.2021. The relevant paragraph of the said minutes of meeting becomes extracted hereinafter.

*"x x x x*

*1.4 The UGC has already notified rules and regulations for recruitment of Assistant Professors and Librarians in its notification "UGC Regulation on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education" of 2010, which has been adopted by the Government of Punjab along with the subsequent amendments.*

*The Departmental Selection Committee will strictly follow the guidelines as per above UGC notification for recruitment of 160 Assistant Professors and 17 Librarians. The relevant portion of the notification for short listing/appointment of candidates to the post of Assistant Professor and Librarians under the University System (in University and Colleges) in Appendix-III Table-II-C is reproduced*


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*as under:-*

| | |
|---|---|
| ***Selection Committee Criteria/ Weightage (Total Weightage=100)*** | ***a) Academic Record and Research Performance (50%)***<br>***b) Assessment of Domain Knowledge and Teaching Skills (30%)***<br>***c) Interview Performance (20%)*** |

14. The Council of Ministers after making profound deliberations penned down the hereinabove extracted minutes. The said penned down minutes of the meeting were approved by the Hon'ble Chief Minister, thus on 17.9.2021.

15. The learned counsels for the respondents have argued that since the Hon'ble Chief Minister was the Head of the Council of Ministers, and, when in the relevant meeting, he was not present but rather subsequently granted approval to the said penned down meeting attended, thus by the attendee members of the Council of Ministers concerned. Therefore, since the minutes of meeting which did not become contemporaneously authored by the Hon'ble Chief Minister along with the other attendees. As such, no credence as such is to be attached to the said approval granted by the Hon'ble Chief Minister on 17.9.2021, as it became granted post the penning down of the minutes of the meeting rather by the attendee members of the Council of Ministers.

16. The above argument as raised by the learned counsels for the respondents is bereft of any vigour as the rules relating to the transaction of business in the meeting of the Council of Ministers, are declared in a judgment rendered by the Apex Court in case titled as ***Narmada Bachao Andolan versus State of Madhya Pradesh*** reported in ***2011 AIR (Supreme Court) 3199***, to be not mandatory but being directory in nature. The relevant paragraph thereof, as carried in the judgment (supra) are extracted


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hereinafter.

> "*30. We have considered the larger Bench judgment of this Court in R. Chitralekha (supra) and taken note of the fact that MRF Ltd. (supra) is distinguishable from the case at hand since that case dealt with rules pertaining to financial implications for which there were no provisions in the Appropriation Act, and so the rules required mandatory compliance Here, there is no issue of financial repercussions. The issue here is whether the Council of Ministers is permitted to delegate the power to amend its decision to a Committee of Ministers consisting of the Ministers-in-charge of the Departments concerned and the Chief Minister, and whether such amendment needs to be consistent with the Rules of Business framed under Article 166 of the Constitution of India. The case law provides that delegation is permissible and that Rules of Business are directory in nature. In view of the above, we find that delegation of power is permissible. Submissions so made on behalf of the appellant in this regard are preposterous."*

17. The upshot of the above is that irrespective of the then Chief Minister not attending the meeting, whereins, the above minutes became penned by the attendee Council of Ministers, rather when he post the meeting, thus granted approval to the minutes (supra), yet the non attendance of the then Hon'ble Chief Minister in the relevant meeting, rather is inconsequential. Now even if assumingly, the Hon'ble Chief Minster for any valid reasons may not have chosen to attend the relevant meeting but when he subsequently granted approval to the above extracted minutes of the meeting, therebys the said granting of approval is deemed to be made with an insightful and profound application of mind. Consequently therebys too, the non attendance by the then Hon'ble Chief Minister in the meeting held on 17.9.2021, whereins, the minutes (supra) were penned down by the attendee ministers becomes inconsequential.


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18. Now coming to a situation relating to any valid or invalid adoption being made to the 2018 UGC Regulations, irrespective of the fact that this Court accepts the argument (supra) addressed before this Court by the learned counsels for the appellants, that in the apposite meeting, no adoption was made of 2018 UGC Regulations, rather adoption was made to the repealed thereby 2010 UGC Regulations, whereupon this Court becomes coaxed to declare that the adoptions, as made in the penned meeting attended by the attendee Council of Ministers, did not relate to the adoption, as required to be made with regard to 2018 UGC Regulations, but related to the repealed thereby 2010 UGC Regulations. Therefore, the effect thereof, is that, since there was no adoption at all of the required to be adopted 2018 UGC Regulations, thereupon, the purported impugned premise founded upon the factum, that the then Hon'ble Chief Minister did not attend the relevant meeting, but rather his post the drawings of minutes of meeting, thus making an insightful contemplated endorsement theretos, naturally becomes completely inconsequential. In fact therebys also there being breach or no breach to the rules relating to the transaction of business in the Council of Ministers, also pales into insignificance.

19. Though, the adoption made in the said meeting is of the 2010 UGC Regulations along with subsequent amendments but since the amendment to 2010 UGC Regulations became never made, rather when the said regulations became repealed by the 2018 UGC Regulations, thereupon when the repealing of 2010 UGC Regulations is not co-equal to amendment thereto becoming made. Therefore, when the required to be adopted, the newly promulgated 2018 UGC Regulations which are not the amendments to 2010 UGC Regulations, never became adopted. Resultantly non-adoption of 2018 UGC


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Regulations but also makes the 1976 Rules surge to the forefront.

20. Now since a reading of the above extracted criteria, as becomes stipulated in the above extracted provisions borne in the 1976 Rules, but leaves no iota of doubt for making an inference that the spelt therein eligibility criteria, thus therebys but justifiably overrules, the decision made by the learned Single Judge concerned, that with thereins occurring no eligibility criteria for the relevant purpose, qua therebys the selection process being vitiated.

21. Emphatically when a specific eligibility criteria becomes explicitly enshrined thereins, and, with there being no challenge with respect to the said enshrined eligibility criteria, on the premise qua the same, thus not being at par with the ordained standard set-up by the UGC. Resultantly therebys the standard of academic excellence as spelt in the eligibility criteria to become possessed by the aspirants concerned, thus is to be concluded to be at par with the academic standard set-up by the UGC, and/or the said apposite academic standard but being also equivalent to the academic standard established by the Government of India or by any other Central Educational body. Consequently, even if assumingly the UGC regulations became adopted, which for the hereinabove assigned reasons, did not become adopted in the meeting of the Councils of Ministers, relevant minutes whereof becomes extracted hereinabove, thereupon rather than the regimen established in Annexure P-14, as emanating from the UGC, the regimen established in Annexure P-2 formulated by the State Legislature is declared to be holding preponderance.

22. The reasons for making the above conclusion becomes sparked from the factum, that though the relevant subject, falls in the concurrent list,


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and, though therebys both the State Legislative Assembly and Union Parliament, thus do hold concurrent legislative competence, to enact laws in respect thereof. Moreover when in the event of there being repugnancy inter se the law enacted by the Union Parliament and one by the State Legislature, therebys the law enacted by the Union Parliament rather supersedes the law enacted by the State Legislature. Even though, when there appears to be some inter se repugnancy inter se the 1976 Rules and the UGC regulations to the extent that in the former there is no necessity of a viva voce, but in the latter there is a necessity of viva voce. However, when in the above underlined portion of the judgment rendered by the Apex Court in ***Kalyani Mathivanan***'s case (supra), it becomes declared that the UGC Regulations of 2010 are directory, thus for the Universities, Colleges and other higher educational institutions under the purview of the State Legislation, but with a rider that yet the State Government can proceed to adopt and implement the regulations. Therefore, it has to be gauged that with the said purported occurring inter se repugnancy inter se Annexure P-2 and Annexure P-14, respectively enacted by the State Legislature and purportedly by the Union Government, whether Annexure P-14 became adopted. Now bearing in mind the fact that the UGC Regulations borne in 2018 were made in the exercise of an executive decision making process wherebys they were but merely an executive fiat and thus are not equivalent to the apposite legislation becoming passed by the Union Parliament.

23. Consequently, on the hereinafter twin premise inasmuch (i) no adoption being made of 2018 UGC Regulations, (ii) UGC Regulations also not being equivalent to a law enacted by the Union Parliament (iii) wherebys it may over a subject common to the State Legislation, and, with the UGC


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Regulations (Annexure P-14), thus hold an apposite overriding effect. However, when the 2018 UGC Regulations are not equivalent to the apposite legislation becoming passed by the Union Parliament, but is merely an executive decision, besides when it became never adopted by the Council of Ministers, therebys rather than the 2018 UGC Regulations, thus 1976 Rules did evidently hold the completest sway and overwhelming clout over the selection process.

24. Reiteratedly, when on a perusal of the above extracted minutes being penned by the attendee Council of Ministers, it is clear that therebys became adopted the 2010 regulations, whereas, the said regulations were not in force, and, rather they suffered repealment through the 2018 UGC Regulations. Resultantly, rather when the 2018 UGC regulations evidently repealed the apposite UGC regulations of 2010, therebys thus the extant 2018 UGC Regulations were required to be adopted by the State. However, when for the reasons (supra), the said regulations became never adopted by the Council of Ministers, nor became accorded endorsement by the then Hon'ble the Chief Minister. Consequently, reiteratedly when unless the 2018 UGC Regulations were adopted by the State, thereupon alone they were thus for the relevant purpose, but binding upon the State. Since the 2018 UGC Regulations remained unadopted, therefore, there was no requirement for Annexure P-14, which embodies thereins the 2018 UGC Regulations becoming permitted to intrude onto the initiated selection process.

25. Conspicuously also, as stated (supra), since reiteratedly Annexure P-14 is not in the form of a legislation becoming passed by the Union Parliament, rather is merely an executive decision, whereas, unless the UGC Regulations became also passed by the Union Parliament, on the


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subject similar to the one as carried in Annexure P-2, thereupon on account of any inter se repugnancy inter se both, thus would result in the Union law prevailing. However, reiteratedly UGC regulations are merely made in the exercise of executive powers and do not take the form and shape of a legislation passed by the Union Parliament. Therefore, when as such there is no requirement of adjudicating upon whether there is any apposite inter se repugnancy. In sequel, and, more importantly when as stated (supra), that to be adopted 2018 UGC Regulations became never adopted. In sequel, there is complete inconsequentiality to the 2018 UGC Regulations.

26. Now alluding to the factum whether for want of consultation, thus in terms of Article 320 of the Constitution of India, being made by the respondents concerned, with the PPSC, qua therebys the selection process becoming vitiated, this Court makes the hereinafter conclusion(s).

27. In the said regard, a reading of the judgment made by the Apex Court in ***State of U.P. versus Manbodhan Lal Srivastava'***s case (supra) is but required. In the said judgment, it has been expostulated that the mandate of Article 320(3) of the Constitution of India, is directory in nature and not mandatory in nature, therebys when there was no preemptory diktat, upon the respondent concerned, to make any preemptory consultation with the PPSC. Resultantly, it was inapt for the learned Single Judge concerned, to conclude that for want of the apposite inter se consultation taking place, therebys the entire recruitment process becoming vitiated.

28. Even though, the State Government had chosen to appoint the Chairman of the UGC, as the Chairperson of the selection committees concerned, and, though in substitution to the said, two selection committees, respectively headed by the Vice Chancellor(s) of the respective Universities,


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thus became constituted, rather for undertaking the exercise of supervising the written examinations.

29. However, when the academic standards of the members of the appositely constituted selection committee remains unchallenged, and, obviously nor when the said challenge becomes proven, therebys the said alteration cannot become a tainting factor for the entire selection process becoming declared to be vitiated, as untenably done by the learned Single Bench of this Court.

30. Even otherwise, sine the aspirants were required to undertake only the written examinations, and, subsequent to their qualifying the written examinations they were not required to be taking a viva voce. Now even if no echoings occur in the relevant rules (supra) about the necessity of takings of viva voce by the successful candidates. However, when on the said ground the vires of 1976 Rules became never challenged, nor when the said challenge is required to be adjudicated upon. Consequently, the non-takings of viva voce by the successful candidates, thus subsequent to the successful undertaking by them of the written examinations, which became conducted in terms of Annexure P-2, rather does not have any consequential ill effect upon the selection process, as became engaged by the respondents concerned.

31. Emphatically so, when the said taking of viva voce, only occurs in the UGC Regulations, whereas, the same does not occur in the 1976 Rules, thereupon when as stated (supra), unless there was adoption of UGC Regulations, thereupon thus the 1976 Rules held complete sway or clout. However, when for the reasons (supra), as apparent on a reading of the above extracted minutes, the notification of 2018 (Annexure P-14) became


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never adopted by the Council of Ministers concerned. Therefore, the mere non takings of viva voce by the aspirants concerned, does not curtail, the effect of the present appellants succeeding in the written test(s).

32. The successes' achieved in the written tests may have been challenged on the ground, that the examinations undertaken by the successful participants being not at par nor being in commensuration with the tests which were held by their counterparts in the other federal units or were not at par with the standard set-forth in the examinations conducted under the auspices of the Union Government. However, since neither the said assertion has been made, nor the said assertion became proven, therebys the standard of examination undertaken by all the concerned, is deemed to be at par with the academic standard as set-forth in the examination(s) conducted in respect of the relevant posts, by the other federal units, besides is deemed it at par with the standards of examinations' conducted under the auspices of Union Government.

33. If so, the natural corollary thereof, is that, especially when there is no leakage of the examination papers, and, with the appellants herein successfully qualifying the examinations, therebys their successfully qualifying written examinations, has rather ill resulted in theirs not becoming adequately requited.

34. Though, as stated (supra), this Court has concluded, that the members, who constituted the selection committees were untainted. Moreover, bearing in mind the fact that they also only supervised the written examinations, and, did not conduct any viva voce, wherebys they may have shown proclivity to one or the other candidate. Significantly since there was no viva voce of the successful candidates by any of the members, nor when


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there is any allegation of bias or favoritism towards any of the successful candidate. Resultantly, it was completely inapt for the learned Single Judge to conclude that the selection process was vitiated, besides also the same has been made on mere surmises and conjectures, and/or it has been merely founded upon unfounded suspicion, even when there was no paper leakage, nor there was any material suggestive, that the academic standard setforth in the examination were deficit in any account, thus to only favourably endow advantage to the successful candidates. Enigmatically therebys, the competence and skills exhibited by the present appellants through theirs qualifying the examinations, thus has remained untenably un-requited. Therefore, for all the reasons (supra), since the examinations are taint-free, therebys the successful candidates are required to be endowed the benefit of their success, rather the same remaining unrewarded.

35. Lastly in the face of there occurring a scam in the recruitment process earlier conducted by the PPSC, therebys there is no indefeasible rule that only the recruitment process engaged into by the PPSC, do require the assigning of utmost sanctity. In the face of the above too, especially when this Court concludes that there was no paper leakage, nor there was any illegality in the non-takings of viva voce by the selected candidates. Importantly also when, the consultation with the PPSC in terms of the judgment of the Apex Court in ***State of U.P. versus Manbodhan Lal Srivastava'***s case (supra) is only directory. Therefore, and, also when the students who are to be taught by the selected teachers, thus have a right to be imparted education by par excellent teachers, who become selected through theirs undergoing the rigours of a taint free examination. Consequently, the recruitment process was required to be made with utmost despatch, so as to


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ensure that on expeditious completion thereof, there is prompt deployment of teachers in the schools concerned, so that therebys the aspiration of the students to become promptly imparted optimum academic education becomes furthered. Resultantly the prompt initiation of recruitment steps by the respondents concerned and thus prompt conclusion thereof, thus cannot cloud the recruitment process with any taint, as untenably done by the learned Single Judge.

36. Importantly also despite the present appellants qualifying the written examinations, and, also the respondents unsuccessfully participating in the selection process, whereupon, there is an estoppel created against them to challenge the selection process, yet they untenably challenged the selection process. The said lack of locus standi inhering in the respondents concerned, appears to become overlooked by the learned Single Judge of this Court. Contrarily, the respondents who are merely contractual Teachers, and, who also failed in the written examinations, thus are reaping the benefits of the present litigation, to the detriment of the present appellants, who acquired the relevant notch in the qualifying examinations, as became held to fill up substantive vacancies.

37. Predominantly also the time when the respondents have taken to make an onslaught to the selection process, is an ill-befitting time, as only after the present appellants joining the relevant posts, theirs appointments becoming rescinded through the impugned order, and, that too without an opportunity of hearing becoming granted to them. Resultantly therebys the rules of natural justice become flouted to the extent, that despite adversarial letters, thus visiting civil consequences, upon the present appellants, yet theirs becoming condemned unheard. The said facet has been completely


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overlooked by the learned Single Judge, therebys the impugned decision appears to be flawed or it becomes founded upon mis-premised reasons.

***Final order***

38. The result of the above discussion, is that, this Court finds merit in all the appeals (supra), and, is constrained to allow them. Consequently, all the appeals (supra) are allowed. The impugned judgment passed by the learned Single Judge of this Court, is quashed and set aside. The respondents concerned, are directed to after completing all the formalities, forthwith take the joinings of the appellants.

39. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**
**JUDGE**

**(SUDEEPTI SHARMA)**
**JUDGE**

**September 23rd, 2024**
**Gurpreet**

**Whether speaking/reasoned : Yes/No**
**Whether reportable : Yes/No**


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