

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 568 of 2017 (S/B)

Technical Teachers Welfare Society & othersPetitioners
Versus

State of Uttarakhand & othersRespondents
With
Writ Petition No. 125 of 2014 (S/B)

Vijay Saini & othersPetitioners
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 525 of 2017 (S/B)

Technical Teachers Welfare Society & othersPetitioners
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 33 of 2018 (S/B)

Sandeep KumarPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 40 of 2018 (S/B)

Smt. Pooja JoshiPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 38 of 2018 (S/B)

Dev BaloniPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 48 of 2018 (S/B)

Ms. Priyanka SainiPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 47 of 2018 (S/B)

Bhupesh SinghPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 46 of 2018 (S/B)

Abhishek BhartiyaPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 49 of 2018 (S/B)

Ms. Priyanka SinghPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 50 of 2018 (S/B)

Smt. Manisha GuptaPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 42 of 2018 (S/B)

Smt. Anjna Kothari GaurPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 39 of 2018 (S/B)

Mr. Amit MorayPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 45 of 2018 (S/B)

Ms. Vijeta PalPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 43 of 2018 (S/B)

Sri Ashish KumarPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 44 of 2018 (S/B)

Sri Raman Kumar AroraPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 41 of 2018 (S/B)

Ms. Aakanksha DevraniPetitioner
Versus

State of Uttarakhand & othersRespondents
Writ Petition No. 60 of 2018 (S/B)

Bhupesh Singh & othersPetitioners
Versus

State of Uttarakhand & othersRespondents

Mr. M.C.Pant and Mr. Kishor Kumar, Advocates for the petitioners.
 Mr. P.C.Bisht, Standing Counsel for the State.
 Mr. Rajendra Dobhal, Senior Advocate assisted by Mr. Atul Bahuguna, Advocate for the respondents no. 5 & 6.
 Ms. Pritika Dwivedi, Advocate for the respondents no. 7.
 Mr. Bhupesh Kandpal, Advocate for the respondent no.9.
 Mr. Lokendra Dobhal Advocate for the respondents no. 10 and 11.

Dated - 31.05.2018

Coram: Hon'ble Rajiv Sharma, J.
Hon'ble Alok Singh, J.

Oral: Hon'ble Rajiv Sharma, J.

Since the common questions of law and facts are involved in the above titled writ petitions, hence the same are being taken up together and adjudicated by this common judgment. However, in order to maintain clarity, the facts of WPSS No.568 of 2017 have been taken into consideration.

2. The grievance of the petitioners is that their contracts have not been renewed and the continuation of respondent no.5 as Director of the Institution is illegal.

3. The State of Uttarakhand has enacted the Act called Uttarakhand Technical University Act, 2005 (*hereinafter to be referred as 'the Act'*). Section 2(m) defines 'Constituent College'. The 'University' is a body corporate. The powers and duties of the 'Chancellor' have been provided u/s 6. The appointment of 'Vice Chancellor' is stipulated u/s 8. The powers and duties of the Vice Chancellor have been defined u/s 10 of the Act. Section 30 empowers the State Government to frame the First Regulations.

4. In sequel to the directions issued by this Court, the Vice Chancellor has passed the following order on 16.10.2017.

"As per Office Order 9945/VC/UTC/2017, Dated Oct. 16, 2017, you are hereby directed to handover all the accounts, cheque book and relevant documents to the Finance Office of the University with immediate effect. This arrangement has been made in the reference to the directions from Hon'ble High court dated Oct. 13, 2017 to restore the academic and administrative environment in the Institute, in the larger interest of students and faculty, till further order. "

5. A Public Litigation Interest (PIL) was filed bearing WPPIL No.113 of 2017 before this Court. This Court disposed of the WPPIL No.113 of 2015 on 25.10.2017. The Court's order reads as under: -

"In this Public Interest Litigation, Ms. Razia Sultan, learned counsel holding brief of Mr. Abhishek Verma, learned counsel for the petitioner would submit that pursuant to the order passed by this Court and following negotiations, the classes have been started. An application for dismissal of the writ petition has been filed by Mr. M.C. Pant, learned counsel for the party respondent/respondent no. 11.

2. Mr. Subhash Upadhyay, learned counsel appearing for respondent no. 2/Director of the Institute, on the other

hand, would submit that the administrative and financial control of the Director have been taken away.

3. We close this writ petition. We only make it clear that this judgment will not stand in the way of the State Government in considering any representation filed by the respondent no. 2/Director in accordance with law.

4. Application for dismissal stands disposed of."

6. It is evident from the operative portion of the judgment cited hereinabove that respondent no.5, herein, was directed to file a representation and the State Government was directed to decide the same. The representation was decided by the Additional Chief Secretary on 13.11.2017.

7. Learned counsel appearing on behalf of the State has failed to point out under what authority he has passed the order on 13.11.2017 nullifying the order dated 16.10.2017.

8 The Vice Chancellor has cancelled the earlier order dated 16.10.2017, after the order passed by the Additional Chief Secretary on 13.11.2017 on 30.11.2017.

9 The affairs of the respondent-institution are to be regulated under the University Act. The State Government, till date, has not framed First Regulations under Section 30, which has further resulted in deterioration of academic standards.

10 The orders passed by the Additional Chief Secretary is without authority, thus void *ab initio*. Consequently, the order dated 16.10.2017 is also bad in law.

11. We have a long interaction with the respondent no.5, who is present in the Court. She apprised the Court that the advertisements were published on 14.6.2016 and on 29.04.206 for filling up the post of Director. However, the selection process, till date, has not been completed.

The State Government has also not created posts as per Section 6(j) of the Act. It is incumbent upon the State Government to impart the quality education to the students. The posts are also required to be filled up as per the norms laid down by UGC and by the All India Council of Technical Education Act.

12. The petitioners have relied upon the orders passed by the Division Bench of this Court in WPSB No.193 of 2014 and analogous matters on 01.12.2015. The judgment dated 01.12.2015 rendered by the Division Bench of this Court was upheld by the Hon'ble Supreme Court.

13. Accordingly, the writ petitions are disposed of. Order under challenge in WPSB No.568 of 2017 along with consequential orders are quashed and set-aside.

A. The respondent-State is directed to frame First Regulations under Section 30 of the Act, within three months from today.

B. The respondents are directed to complete the selection process for the post of Director within three months from today, as per the norms of UGC and the guidelines prescribed under the All India Council of Technical Education Act.

C. The respondent-Institution is also directed to engage the petitioners on contractual basis, in view of the observations made by the Division Bench of this Court in WPSB No.193 of 2014 and analogous matters on 01.12.2015 within three weeks from today.

D. The respondent-State is directed to ensure creation of posts as per Section 6(j) within a period of three months from today, to improve the academic standards in the respondent-Institution.

E. The respondent no.5 is directed to consider the leave applications of the petitioners sympathetically and give access to the facilities to the petitioners available in the University without causing any hindrance.

F. Petitioners shall file affidavits within two weeks' before this Court undertaking not to create any law and order problem in the eventuality of their contracts being renewed.

14. Pending applications stand disposed of in the aforesaid terms.

(Alok Singh, J.)

(Rajiv Sharma, J.)

NISHANT/Kaushal