

- (2) That the Vice-Chancellor can be suspended by the Chancellor only if an inquiry is to be conducted by himself (Chancellor) or through some person appointed by him on whom the (Chancellor) has complete control, and it is only during the pendency of that inquiry that an order of suspension can legally be passed if the Chancellor is satisfied that suspension of the Vice-Chancellor would facilitate holding of the inquiry; and
- (3) That the allegations of *mala fide* are not being gone into as they raise disputed questions of fact.

(32) In view of our conclusion No. (2), we allow this petition and set aside the impugned order of suspension, dated September 21, 1979. Annexure P. 9, passed by the Chancellor, respondent No. 1. As a consequence thereof, the impugned order Annexure P. 20, by which Shri Chander Singh, Deputy Commissioner, Rohtak, was appointed Vice-Chancellor temporarily, automatically falls. In the circumstances of the case, we make no order as to costs.

N. K. S.

FULL BENCH

Before S. S. Sandhawalia C.J., S. C. Mital and C. S. Tiwana, JJ.

KURUKSHETRA UNIVERSITY and others,—Appellants.

*versus*

RURAL COLLEGE of EDUCATION, KAITHAL,—Respondent.

Letters Patent Appeal No. 630 of 1978.

November 22, 1979.

*Kurukshetra University Act (XII of 1956)—Section 15 and Ordinance 1. clause (2)—University issuing guide-lines to colleges for admission to B.Ed. course—Candidates of Haryana domicile only directed to be admitted—Validity of the guidelines challenged—Such guidelines—Whether have a statutory source—Infraction thereof—Whether a ground for disaffiliation of a colleges.*

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*Held*, that the guidelines amongst other things provide for the reservation of the seats, eligibility of the candidates and included therein is the specific provision that the Haryana domicile would be obligatory for admission to the B.Ed. course. The guidelines also provide for the weightage, eligibility and for the merit list as also the admission procedure for the recognized colleges of education etc. Looking at the contents of the guidelines and the provisions of Ordinance I framed under the Kurukshetra University Act 1956, it appears that there can be little doubt that the guidelines issued fall fairly and squarely within the field delineated by clause (2) of Ordinance 1. Clause (1) of Ordinance 1, however, provides for the constitution of an Admission Committee and sub-clauses (a) to (f) thereof prescribe the personnel which are to constitute these Admission Committees at various levels and in the different institutions. Sub-clause (c) (iii) pertains to the professional colleges including Colleges of Education which therefore come specifically and pointedly within the ambit of this Ordinance. Clause (2) of Ordinance 1 empowers the Admission Committee to decide the manner in which admissions to the Colleges recognized or maintained by the University shall be regulated. This power which is widely worded is too plain to need any elaboration. However, if any was needed the same is provided by sub-clauses (ii) (a) (b) (c) and (d). These, in terms provide that the principles for drawing up the merit list of candidates applying for admission, the number of seats to be available, schedule of dates and the residuary questions of all sorts which may be referred to the Admission Committee by the Vice-Chancellor may be provided for. It is, thus, plain that the guidelines are totally well encompassed within the statutory sanction provided by Ordinance 1 admittedly framed under the provisions of the Act and therefore valid. Consequently, it would follow that for the infraction of the guidelines, University was entitled to take action against the college and withdraw the affiliation and refuse registration to the students admitted in contravention thereof. (Paras 7, 8, 9, 10 and 12).

*Letters Patent Appeal under Clause X of the Letters Patent against the order passed by Hon'ble Mr. Justice Gurnam Singh on 9th October, 1978 in C.W.P. No. 1357 of 1978.*

S. C. Mohunta, Advocate, for the University.

Naubat Singh, Senior D.A.G., for the State of Haryana.

Kuldip Singh, Advocate, with R. S. Mongia, Advocate, for the respondent.

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**JUDGMENT**

*S. S. Sandhwalia, C.J.*

(1) Whether the guidelines issued by the Kurukshetra University to all the Colleges of education affiliated thereto for the purposes of admission to the B.Ed. Course for the session of 1977-78 (Annexure p. 3), are within the ambit of the statutory provisions of ordinance 1 framed under the Kurukshetra University Act, 1956, is the solitary, though meaningful, question which arises in this appeal under clause 10 of the Letters Patent.

2. Though the issue aforesaid is manifestly legal, the matrix of facts giving rise to the same nevertheless call for some detailed notice. The Rural College of Education, Kaithal, managed by the Rural College Society is a body registered under the Societies Registration Act. It was established in the year 1970 and it does not seem to be in serious dispute that one of the aims and objects of the society was the maintaining of educational institutions for the social and political education amongst the rural masses. Originally, this institution was affiliated with the Panjab University which at the time had territorial jurisdiction over the area, but in July, 1976 it was disaffiliated therefrom and affiliated with the Kurukshetra University. There is a history of litigation between the respondent-College and the University which is no longer of any relevance and it suffices to mention that for the session of 1977-78, the University forwarded the guidelines for admission to the B.Ed. Classes (Annexure p/3 to the Writ Petition) and further directed that the students having domicile in Haryana, whether belonging to rural or urban areas would be eligible for admission. The respondent-College objected to the issuance of the guidelines alleging that the University had no authority to fetter its right to admit students nor could it be compelled under the Instructions to confine admissions to the students of Haryana State only, irrespective of their urban or rural background.

3. Despite the guidelines issued by the Kurukshetra University, the respondent-College inserted an Admission Notice in 'The Tribune' of July 24, 1977 that only persons born or educated in a village anywhere in India need apply for admission in the College. At the stage of the admission of the students, the University deputed Dr. A. P. Sharma and Dr. B. R. Gupta to be the members of the Admission

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Committee constituted under ordinance-1 with three others representing the respondent-College. At the time of holding interviews the aforesaid two members representing the Kurukshetra University (hereinafter called as the University) insisted that the students having domicile in Haryana irrespective of the fact whether they belong to Rural or Urban areas should be granted admission and when this was not agreed to by the others, the two nominated members withdrew from the Committee under protest and did not participate in the admission interviews. The remaining members admitted 100 students who had their education in rural areas anywhere in India. The University, however, took the stand that this admission was in derogation of the guidelines issued by it and consequently illegal, but the president of the governing body of respondent-College stuck to the stand and further questioned the University's power to issue the guidelines. Ultimately, the appellant-University served a show-cause notice as to why it should not be disaffiliated as they had admitted students in patent violation of the guidelines issued by the University to which the respondent-College took the stand that the University had no power to issue the guidelines. Ultimately, the Executive Council of the University,—*vide* its letter Annexure P/12 to Writ Petition decided to disaffiliate the College with effect from the Session of 1977-78 and further informed that the students admitted by the College were not being registered by the University.

4. Aggrieved by the insistence of the University to enforce the guidelines, Annexure p/3 and the disaffiliation of the College, the Writ Petition giving rise to the present appeal was preferred. The learned Single Judge before whom the matter came up in the first instance took the view that since the College was being maintained with the funds collected from the rural areas, the Society *prima facie* had the power to regulate admission of the students to the College, and was further not satisfied that the guidelines issued by the University were covered by the provisions of the University ordinances framed under the Kurukshetra University Act, itself. Holding that it was not clear from the record as to under what provisions of law the guidelines, Annexure p/3 had been issued, he struck the same down as illegal and as a consequence also set aside the disaffiliation of the University.

5. This Letters Patent Appeal first came up before the Division Bench, who in their reference order had taken the view that the

larger question regarding a University having the power to control and regulate the admission of students to a recognized college merited an authoritative decision by a Larger Bench and that is how the matter is before us.

6. Now the argument has indeed been reduced to a very narrow compass. Mr. S. C. Mohunta, the learned Advocate for the appellant-University has incisively contended and in our view rightly that the sole question now is, whether the guidelines Annexure p/3 issued by the University have the statutory sanction of the Act and the Ordinance issued thereunder? Counsel pinned himself down to the argument that the impugned guidelines were squarely within the ambit of Ordinance-1 duly framed under the Kurukshetra University Act. As the whole argument inevitably revolves around the relevant part of its provisions it is necessary at the very out-set to read Clause (2) of the Ordinance-1;

*“Admission Committee.*

(1) \* \* \*

(2) The Admission Committee shall, subject to the provisions of Ordinances, decide:—

(i) the manner in which admission to the University Teaching Departments and to the Colleges recognised/ maintained by the University shall be regulated;

(ii) in particular and without prejudice to the generality of the foregoing power, the Committee may lay down:—

(a) the principles of drawing up of merit lists of candidates applying for admission, and the categories of candidates for which any seats are to be reserved and/or to whom any weightage is to be allowed for placement in the merit lists;

(b) the number of seats to be available in the Departments and in the Colleges;

((c) the schedule of dates for admission to the various Courses;

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(d) such other matter as may be referred to it by the  
Vice-Chancellor.

In the light of the above, the core of the matter is whether the afore-  
said provisions are adequate statutory source for the guidelines  
Annexure p/3.

7. Now a reference to Annexure p/3 would indicate that it  
expressly is a guideline to be inflexibly followed by all the Colleges  
of education for admission to the B.Ed. Course. Amongst other  
things it provides for the reservation of the seats, eligibility of the  
candidates and included therein is the specific provision which is  
the bone of contention, namely, that the Haryana domicile would be  
obligatory for admission to the B.Ed. Course. The guidelines also  
provide for the weightage, eligibility, and for the merit list as also  
the admission procedure for the recognized colleges of education,  
etc.

8. Now looking at the contents of Annexure p/3, and the  
provisions of Ordinance-1, it appears to us that there can be little  
doubt that the guidelines issued fall fairly and squarely within the  
field delineated by clause (2) of Ordinance-1. However, it first calls  
for pointed notice that Ordinance-1, clause (1), provides for the  
constitution of an Admission Committee and Sub-clauses (a) to (f)  
thereof prescribe the personnel which are to constitute these Admis-  
sion Committees at various levels and in the different institutions.  
Sub-clause (c) (iii) pertains to the professional Colleges including  
Colleges of Education which, therefore, come specifically and pointed-  
ly within the ambit of this ordinance.

9. Now clause (2) of Ordinance-1 empowers the Admission  
Committee to decide the manner in which admissions to the  
Colleges-recognized or maintained by the University shall be regu-  
lated. This power which is widely worded, is too plain to need any  
elaboration. However, if any was needed, the same is provided by  
sub-clauses (ii) (a) (b) (c) and (d). These, in terms provide that the  
principles for drawing up the merit list of candidates applying for  
admission, the number of seats to be available, schedule of dates and  
the residuary questions of all sorts which may be referred to the  
Admission Committee by the Vice-Chancellor may be provided for.

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It appears to us that this wide ranging language does not only cover Annexure p/3, but much more than that.

10. On the aforesaid view, it is plain that the guidelines, Annexure P/3, are totally well encompassed within the statutory sanction provided by ordinance-I admittedly framed under the provisions of the Kurukshetra University Act. Once that is so, there can be little doubt that the respondent-College was bound by the aforesaid guidelines. The matter seems to be put beyond any doubt by Appendix-1 which prescribes form of application for affiliation to the University. Sub-clause (k) thereof is in the following terms:—

“an assurance that after the College is recognised any transference of management and all changes in the teaching staff shall be forthwith reported to the Vice-Chancellor and that the institution shall faithfully observe the provisions of the Act, Statutes Ordinances and Regulations of the University, or any instructions issued by the Executive Council or on its behalf, from time to time.”

This would make it even more clear that the affiliated colleges are bound to observe not only all the provisions of the Act, Statutes, Ordinances and Regulations of the University, but also any instructions issued by the Executive Council or on its behalf from time to time.

11. Repelled on his main stand that there was no statutory provisions under which the guidelines Annexure p/3 had been issued, Mr. Kuldip Singh then fell back on an argument of despair. It was sought to be contended rather vehemently that the provisions of Ordinance-I itself are bad and either *ultra vires* of the Act or otherwise unconstitutional. We are unable to either appreciate, or to permit the raising of any such contention at the stage of a Letters Patent Appeal. Reference to the exhaustive writ petition would show that far from so alleging, there was not even a hint that Ordinance-I of the Act was either *ultra vires* of the parent statute or was unconstitutional. Indeed there is not even a specific reference to Ordinance-I at all in the whole of the writ petition. It was indeed ultimately conceded fairly by Mr. Kuldip Singh that any specific challenge to the constitutionality or being beyond the scope of the

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Act was never laid against any one of the Ordinances. Consequently, not the least foundation was laid for such a submission in the whole of the petition. What, however, is more is the admitted fact that at no stage before the learned Single Judge, such an argument seems to have been raised even by implication. Even before us, the basic stand of the learned counsel for the respondents was that Annexure p/3 was not covered by Ordinance-I, which as already noticed, we are inclined to repel in its totality. We are, therefore, unable to permit the raising of an altogether new ground for which no basis exists in the pleadings or in the arguments before the learned Single Judge, at this belated stage.

12. In the light of the discussion in the foregoing paragraphs, the answer to the question formulated at the outset has, therefore, to be returned in the affirmative. It is held that the guidelines, annexure p. 3, are within the ambit of the statutory provisions and, therefore, valid. Consequently it would follow that for the infraction of the guidelines, University was entitled to take action against the College and withdraw the affiliation and refuse registration to the students admitted in contravention thereof. We are, therefore, constrained to take a view contrary to the learned Single Judge and his judgment has, therefore, to be set aside and the writ petition preferred by the respondent-college is hereby dismissed.

13. It would be manifest, however, that the allowance of the appeal would have inevitably caused untold hardship to the students admitted to the B.Ed. Class who would be the unfortunate and innocent victims of the controversy betwixt the University and the respondent-college. We had, therefore, directed the relisting of the appeal to elicit the stand of the parties in the event of its allowance. Mr. S. C. Mohunta, the learned Advocate for the University had very fairly stated that in case the respondent-college now undertakes to unreservedly follow the guidelines issued by the University then the University would not wish to penalise the nearly hundred students who had joined the B.Ed. class and also withdraw the disaffiliation of the College. Mr. Kuldip Singh on behalf of the respondent-College before us undertook straightaway that the respondent-College would hereafter abide the said guidelines. In this view of the matter it is directed that the students of the B.Ed. class would be duly registered by the University and further that on the conveyance of the necessary undertaking by the respondent-College to



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the University authorities, disaffiliation thereof would be withdrawn.

14. The appeal is disposed of in these terms. In view of the fair stand taken by both the parties we leave them to bear their own costs.

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N. K. S.

FULL BENCH

Before S. S. Sandhawalia, C.J., D. S. Tewatia and J. V. Gupta, JJ.

KALU RAM,—Petitioner.

*versus*

GONDA MAL,—Respondent.

Civil Revision No. 919 of 1979.

December 3, 1979.

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2) (i) Proviso—Ejectment sought on the ground of non-payment of rent for a certain period—Rent not tendered on the first date of hearing—Landlord, filing another application for ejectment for non-payment of rent for a period including that mentioned in the first application—Entire rent tendered on the first date of hearing in the second application—Ground for ejectment in the first application—Whether survives—Landlord—Whether entitled to claim ejectment in the first application.*

*Held*, that the scheme of the East Punjab Urban Rent Restriction Act 1949 is that the tenant is to pay the rent regularly either within 15 days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last date of the month next following that for which the rent is payable. In case the tenant fails to pay the rent as provided, he incurs the liability for ejectment under the Act. By adding proviso to sub-section (2) of Section 13, a further opportunity has been given to the tenant to pay all the arrears due on the first date of hearing of the application for ejectment with interest