



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 9759 OF 2021 (S-DIS)

BETWEEN:

SRI M. SEETHARAM
S/O LATE M. KRISHNAMURTHY,
AGED ABOUT 59 YEARS,
DEPUTY REGISTRAR (INDEPENDENT CHARGE)
KUVEMPU UNIVERSITY,
JNANA SAHYADRI,
SHANKARAGHATTA,
BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT – 577 451

...PETITIONER

(BY SRI. KESHAHA BHAT A., ADVOCATE)

AND:

1. THE VICE CHANCELLOR
KUVEMPU UNIVERSITY,
JAYANA SAYADHRI,
SHANKARA GHATTA,
SHIVAMOGGA – 577 451
2. THE DIRECTOR
TRIBAL WELFARE DEPARTMENT,
LOTUS TOWERS,
POORNA PRASAD ROAD,
MADHAVANAGAR,
GANDHI NAGAR,
BANGALORE – 560 001

...RESPONDENTS

(BY SRI. S.V. PRAKASH, ADVOCATE FOR R1;
SRI. C. JAGADEESHA, ADVOCATE FOR R2)





THIS W.P. IS FILED UNDER ARTICLE 226 OF CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE R-1 DTD. 15.04.2021 IN ORDER NO.KU.VI:MASANI-2:115:2021-22 (ಆದೇಶ ಸಂಖ್ಯೆ : ಕುವಿ : ಮಾಸನಿ - 2:115:2021-22) PRODUCED AT ANNEXURE-A DURING THE PENDENCY OF ABOVE WRIT PETITION.

THIS PETITION IS BEING HEARD AND RESERVED ON 12.03.2026 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

CAV ORDER

In this petition, petitioner seeks for the following reliefs:

“(i) Issue a writ of certiorari or any other appropriate writ, order or direction setting aside the impugned order passed by the first respondent dated 15.04.2021 in Order No.KU VI: MASANI-2: 115 : 2021-22 (DzÉÃ±À ,ÀASÉå: PÀÄ«: ²ÀiÁ,À²-2:115:2021-22) dismissing the petitioner from service vide Annexure-A.

“(ii) Grant such other relief as this Hon'ble Court deems fit in the interest of justice and equity.”

2. A perusal of the material on record will indicate that the petitioner was appointed as a Second Division Clerk on 26.10.1989 in Kuvempu University against a post reserved for Scheduled Tribe (ST) Community based on a Caste Certificate, which showed that he belonged to “Maleru / Maaleru” which was a notified Scheduled



Tribe and the petitioner continued to work in the Kuvempu University. On 18.11.2015, the District Caste Verification Committee (DCVC), Udupi, constituted under the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment Etc.,) Act, 1990 (for short 'the said Act of 1990') cancelled the Caste Certificate of the petitioner, who approached this Court in W.P.No.52826/2015, which was disposed of on 08.01.2016 by continuing the interim stay for a period of four weeks and granting liberty in favour of the petitioner to approach the Appellate Authority. Accordingly, petitioner filed an appeal in Appeal No. CR 12/2015-16 before the 2nd respondent – Appellate Authority, who allowed the said appeal vide order dated 30.11.2019 and remitted the matter back to the DCVC for reconsideration afresh, in accordance with law. Meanwhile, the Tahsildar passed one more order dated 15.03.2016 cancelling the petitioner's caste certificate, which was assailed by the petitioner in W.P.No.19176/2016 which was allowed and disposed of by this Court vide final order dated 06.02.2019, whereby the aforesaid order passed by the Tahsildar was set aside on the grounds of violations of principles of natural justice and the matter was



remitted back to the competent authority for reconsideration afresh in accordance with law.

3. In pursuance of the aforesaid order passed by this Court in W.P.No.52826/2016 dated 08.01.2016 and W.P.No.19176/2016 dated 06.02.2019 as well as the aforesaid order passed by the 2nd respondent – Appellate Authority in Appeal No.CR 12/2015-16, the DCVC once again passed an order dated 30.03.2021 cancelling the petitioner's Caste Certificate. Aggrieved by the said order passed by the DCVC dated 30.03.2021 cancelling his Caste Certificate, petitioner filed a statutory appeal on 08.04.2021 under Section 4D of the said Act of 1990 before the 2nd respondent – Appellate Authority along with an application for stay of the order of the DCVC dated 30.03.2021. Subsequently, the 1st respondent, who is the Vice Chancellor of the Kuvempu University proceeded to pass the impugned order dated 15.04.2021 dismissing the petitioner from service, aggrieved by which the petitioner is before this Court by way of the present petition.

4. Heard learned counsel for the petitioner and learned counsel for respondents and perused the material on record.



5. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner submitted that the 1st respondent – Vice Chancellor did not have jurisdiction or authority of law to dismiss the petitioner from service, since he was a Deputy Registrar (Independent Charge) and therefore, a Group – A employee, who was appointed to the post by the Kuvempu University Syndicate, which alone was entitled, empowered and authorised to remove / dismiss the petitioner from service and as such, the impugned order of dismissal at Annexure – A dated 15.04.2021 passed by the 1st respondent – Vice Chancellor deserves to be quashed.

5.1. Learned counsel would also submit that Section 4D of the said Act of 1990 provided an appeal period of 30 days to be filed before the 2nd respondent – Appellate Authority from the date of the DCVC order dated 30.03.2021 and the petitioner having filed such an appeal on 08.04.2021 along with an application for stay within the prescribed period, the impugned order passed by the 1st respondent dismissing the petitioner before expiry of the appeal period and without providing any opportunity to the petitioner was violative of principles of natural justice and the impugned order



deserves to be quashed on this ground also. It was further submitted that Section 15(5) of the Karnataka State Universities Act, 2000 (for short 'the said Act of 2000') was not applicable to the facts of the instant case, since no emergency requirement was made out by the 1st respondent – Vice Chancellor to invoke the said provision for the purpose of the impugned order, which does not also refer to any material in this regard or invocation of the said provision.

5.2 It was further submitted that though the 1st respondent placed reliance upon a ratification order dated 28.07.2021 said to have been passed by the University Syndicate purporting to ratify the impugned order dated 15.04.2021, having regard to the fact that the present writ petition was filed on 24.05.2021 prior to the said ratification order, which was a *post-litem* document, which came into existence during the pendency of the present petition coupled with the fact that the said ratification itself would demonstrate that the 1st respondent – Vice Chancellor did not have jurisdiction or authority of law to pass the impugned order which deserves to be quashed on this ground also. In support of his



submissions, learned counsel for the petitioner places reliance upon the following decisions:

***(i) Marathwada University Vs. Seshrao Balwant
Rao Chavan – (1989) 3 SCC 132;***

***(ii) Shri G.S. Krishnamurthy vs. The Chancellor
and Others – W.P.No.51737/2019 dated 11.12.2019;***

6. Per contra, learned counsel for the 1st respondent would reiterate the various contentions urged in the statement of objections and submits that apart from the fact that Section 15(5) of the said Act of 2000 was applicable and had been invoked by the 1st respondent – Vice Chancellor for the purpose of passing the impugned order, immediately upon receiving information from the DCVC about the order dated 30.03.2021 cancelling the Caste Certificate of the petitioner, it was open for the 1st respondent – Vice Chancellor to immediately pass the impugned order without issuing any notice to the petitioner, since the same was not required or warranted in law and the impugned order passed by the 1st respondent – Vice Chancellor having been subsequently ratified by the University Syndicate on 28.07.2021, the petitioner is not entitled to any relief in the present petition, which is liable to be



dismissed. In support of his submissions, learned counsel for the 1st respondent places reliance upon the following decisions:

(i) Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and Others – AIR 1995 SC 94;

(ii) R. Vishwanatha Pillai Vs. State of Kerala and Others – (2004) 2 SCC 105;

(iii) Vijay Kishanrao Kurundkar and another Vs. State of Maharashtra and Others – AIR 2020 SC 3715;

(iv) Chairman and Managing Director, Food Corporation of India and Others Vs. Jagdish Balaram Bahira and Others – (2017) 8 SCC 670;

(v) Dr. N. Maruti Rao Vs. The Rani Channamma University and Others – W.P.No.106080/2024 dated 12.01.2026.

7. I have given my anxious consideration to the rival submissions and perused the material on record.

8. A perusal of the material on record will indicate that it is an undisputed fact and a matter of record that the impugned order has been passed by the 1st respondent – Vice Chancellor of Kuvempu University and not by the University Syndicate; in this context, a perusal of the impugned order will indicate that the same does not refer to any decision / resolution taken / passed by the Kuvempu University or its Syndicate prior to passing the impugned



order; in other words, it was for the first time under the impugned order that the 1st respondent – Vice Chancellor proceeded to dismiss the petitioner from service without any preceding / prior order, decision, resolution, etc., by the Kuvempu University or its Syndicate; it is also an undisputed fact that the petitioner having been appointed by the University Syndicate, which was the Appointing Authority, it was the said Syndicate of Kuvempu University alone, which was entitled, empowered and authorised to remove the petitioner from service. Further, under the Mysore University Employees (Classification, Control and Appeal) Statutes, 1983, which has been adopted by the Kuvempu University, the 1st respondent – Vice Chancellor is not entitled to dismiss / remove the petitioner from service. Under these circumstances, I am of the considered opinion that the impugned order passed by the 1st respondent – Vice Chancellor dismissing the petitioner from service is not only illegal and contrary to law and facts but also without jurisdiction or authority of law and the same deserves to be quashed.

9. The 1st respondent has contended that the impugned order passed by him was subsequently ratified by the University



Syndicate on 28.07.2021, which would have the effect of ratifying the impugned order, which cannot be assailed in the present petition; the said contention urged by the 1st respondent cannot be accepted, since the said / purported ratification order dated 28.07.2021 is undisputedly a *post-litem* document, which was passed subsequent to the present petition having been preferred before this Court on 24.05.2021; on the other hand, the said ratification order dated 28.07.2021 by itself is sufficient to come to the conclusion that the 1st respondent – Vice Chancellor was not empowered, authorised or entitled to pass the impugned order, since the same was purported to be ratified by the University Syndicate subsequently; in ***Marathwada University's case supra***, the Apex Court held as under:

“This appeal by leave is from a decision of the Bombay High Court which allowed the respondent's petition for a writ of certiorari. In so doing the court quashed departmental proceedings initiated against the respondent and the resultant order terminating his services.

2. The facts are substantially undisputed and may briefly be stated as follows:

“Respondent-Seshrao Balwant Rao Chavan was at the relevant time the Deputy Registrar of the



Marathwada University. One Mr Yelikar was working then as Controller of Examinations. In or about April 1976, Mr Yelikar proceeded on leave and the present respondent was directed to discharge the duties of the Controller of Examinations. Accordingly, he joined his new assignment and continued to hold that post when the controversy which culminated in his dismissal took place.”

3. It is said that one Mr Swaminathan from Madras was entrusted with the printing works needed to conduct annual examinations of the University for the years 1974 and 1975. Mr Swaminathan submitted his bills amounting about Rs 6,00,000 for the work performed by him. The bills were not cleared immediately, and Mr Swaminathan complained to the University authorities. He also submitted a petition to the Prime Minister of India which was forwarded to the University for immediate action. This led to an enquiry to find out whether the bills were deliberately kept pending with any ulterior motive. The Executive Council of the University appointed a four-member committee including the Vice-Chancellor to enquire into the matter. The committee after investigation submitted a report in November 1977 making some prima facie observations against the respondent. Thereupon, the Executive Council desired to have the matter thoroughly examined by another committee. It appointed Mr N.B. Chavan for the purpose. Mr Chavan made a detailed enquiry but found nothing against the respondent. On 23-12-1978, he submitted a report stating inter alia that there was no



delay in clearing the said bills and if there was any delay, it was justified in the circumstances. He has stated that the University utilised the time for internal audit in which it was found that the claim of Mr Swaminathan was excessive to the extent of Rs 48,000 and odd. The report of Mr Chavan thus gave a clean chit to the respondent as to his conduct in discharging the duties as Controller of Examinations.

4. If the Executive Council had accepted the report and closed the matter that would have been better. But unfortunately, it was not done and another chapter was opened. On 22-3-1979, the report of Mr Chavan was placed before the Executive Council which without taking any decision entrusted to question to the Vice-Chancellor. The Vice-Chancellor was present in that meeting and agreed to take a decision in about a month. But what he did was entirely different. Purporting to act under the powers given to him by the Executive Council, he directed departmental enquiry against the respondent. He appointed Mr Motale, advocate as an Inquiry Officer who framed three charges: First charge impeached the respondent of intentionally delaying the clearance of the bills of Mr Swaminathan and thus tarnishing the image of the University. Second charge alleged that the respondent did not place before the Executive Council, the letters addressed by the Chancellor of the University on 23-7-1976 and 19-8-1976. Third



charge accused the respondent for not producing all the available papers for scrutiny by the one-man committee headed by Mr Chavan.

5. On 26-10-1979, Mr Motale submitted his enquiry report to the Vice-Chancellor holding the respondent guilty of the charges. After the usual procedure of giving show-cause notice and considering the reply thereto, the Vice-Chancellor decided to dismiss the respondent. On 2-1-1980, he accordingly made an order.

6. The matter did not rest there. The respondent moved the High Court under Article 226 of the Constitution challenging his dismissal. When the writ petition first came up for hearing in November 1985, the High Court took a very curious stand. It observed that the entire matter be placed before the Executive Council for taking an appropriate decision. As per this observation, the matter came up before the Executive Council in the meeting held on 26-12-1985/27-12-1985. The Executive Council passed a resolution inter alia, ratifying the action taken by the Vice-Chancellor and confirming the dismissal of the respondent. This has added a new dimension to the case.

7. At the final disposal of the writ petition, the High Court, however, examined the merits of the matter. The High Court held that the action taken by the Vice-Chancellor was without authority of law. As to the ratification made by the Executive Council, the



High Court held: "That the acts done by the Vice-Chancellor remain the acts without any authority or powers and that defects cannot be cured by the subsequent resolution." With the conclusions, the High Court quashed the departmental proceedings taken against the respondent and also the order of termination of his services.

8. Being aggrieved by the judgment, the Marathwada University by obtaining special leave has appealed to this Court.

9. Learned counsel for the appellant put his contention in two ways: First, he said that on the true construction of the relevant provisions of the Marathwada University Act, 1974, the termination of services of the respondent cannot be assailed for want of power or jurisdiction on the part of the Vice-Chancellor. Counsel next said that if the order was defective or without authority, the ratification by the Executive Council has rendered it immune from any challenge.

10. In order to appreciate these submissions, we must outline the statutory provisions of the Marathwada University Act, 1974 (called shortly "the Act"). Section 8 specifies the officers of the University. The Vice-Chancellor is one of the officers. Section 10 provides for appointment of the Vice-Chancellor. He shall be appointed by the Chancellor and shall ordinarily hold office for a term



of three years. Section 11 reads, so far as material, as follows:

“11. (1) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall in the absence of the Chancellor, preside at the meetings of the Senate and at any convocation of the University....

(3) It shall be the duty of the Vice-Chancellor to ensure that the provisions of this Act, the statutes, Ordinances and Regulations are faithfully observed. The Chancellor shall, for this purpose, have the power to issue directions to the Vice-Chancellor who shall give effect to any such directions.

(4) If there are reasonable grounds for the Vice-Chancellor to believe that there is an emergency which requires immediate action to be taken, he shall take such action as he thinks necessary and shall, at the earliest opportunity, report in writing the grounds for his belief that there was an emergency, and the action taken by him, to such authority or body as would, in the ordinary course, have dealt with the matter....

(6)(a) It shall be lawful for the Vice-Chancellor, as the principal executive and academic officer, to regulate the work and conduct of the officers, and of the teaching, academic and other employees of the University, in accordance with the provisions of this Act, the statutes, Ordinances and Regulations....

(7) The Vice-Chancellor shall exercise such other powers and perform such other duties as are prescribed by the statutes, Ordinances and Regulations.”

11. *Section 19 enumerates the authorities of the University. The Executive Council is one of the authorities specified thereunder.*



12. *Section 23 to the extent necessary is in the following terms:*

“23. (1) The Executive Council shall be the principal executive authority of the University, and shall consist of the following members, namely: (i) the Vice-Chancellor-ex-officio Chairman.”

13. *Section 24 deals with the powers and duties of the Executive Council. These powers and duties are wide and varied and it is sufficient if we read sub-sections (1), (xxix) and (xli) of Section 24. They are as follows:*

“24. (1) Subject to such conditions as are prescribed by or under this Act, the Executive Council shall exercise the following powers and perform the following duties, namely,—

(xxix) appoint officers and other employees of the University, prescribe their qualifications, fix their emoluments, define the terms and conditions of their service and discipline and where necessary, their duties....

(xli) delegate, subject to the approval of the Chancellor, any of its powers (except the power to make Ordinances), to the Vice-Chancellor, the Registrar or the Finance Officer, or such other officers or authority of the University or a committee appointed by it, thinks fit.”

14. *Two other provisions are material, namely, Sections 37 and 84. Section 37, omitting the unnecessary, is in these terms:*

“37. Subject to the conditions prescribed by or under this Act, the Senate may make the statutes to provide for all or any of the following matters namely:

(xvi) The term of office, duties and conditions of service of officers, teachers



and other employees of the University, the provisions of pension, insurance and provident fund and the manner of termination of their service and other disciplinary action and their qualifications, except those of teachers.”

15. *Section 84 is as follows:*

“84. Delegation of powers.—Subject to the provisions of this Act and statutes any officer or authority of the University may, by order, delegate his or its powers, except the power to make statutes, Ordinances and Regulations, to any other officer or authority under his or its control, and subject to the conditions that the ultimate responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating them.”

16. *With these provisions, we turn to consider the first question urged for the appellant. The question is whether the Vice-Chancellor was competent to direct disciplinary action against the respondent. In this context, we may make a few general observations about the position and powers of the Vice-Chancellor. The University Education Commission in its report (Vol. I December 1948 to August 1949) has summarised the powers and duties as follows (at 421):*

“Duties of Vice-Chancellor.—A Vice-Chancellor is the chief academic and executive officer of his university. He presides over the court (Senate) in the absence of the Chancellor, Syndicate (Executive Council) Academic Council, and numerous committees including the selection committees for appointment of staff. It is his duty to know the senior members of the staff intimately and to be known to all members of the staff and



students. He must command their confidence both by adequate academic reputation and by strength of personality. He must know his university well enough to be able to foster its points of strength and to foresee possible points of weakness before they become acute. He must be the 'keeper of the university's conscience', both setting the highest standards by example and dealing promptly and firmly with indiscipline and malpractice of any kind. All this he must do and it can be done as constitutional ruler; he has not, and should not have autocratic power. Besides this he must be the chief liaison between his university and the public, he must keep the university alive to the duties it owes to the public which it serves, and he must win support for the university and understanding of its needs not merely from potential benefactors but from the general public and its elected representatives. Last, he must have the strength of character to resist unflinchingly the many forms of pressure to relax standards of all sorts, which are being applied to universities today."

17. *This has been approved by the Education Commission, 1964-66. In the report of the Education Commission, 1971 (at 610-11 para 13.32) it was stated:*

"The person who is expected, above all, to embody the spirit of academic freedom and the principles of good management in a university is the Vice-Chancellor. He stands for the commitment of the university to scholarship and pursuit of truth and can ensure that the executive wing of the university is used to assist the academic community in all its activities. His selection should, therefore, be governed by this overall consideration."



18. *Dr. A.H. Homadi in his wise, little study about the role of the Vice-Chancellor in the university administration in developing countries has this to state (at p. 49):*

“The President or the Vice-Chancellor:

The President must be willing to accept a definition of educational leadership that brings about change to the academic life of the institution. He must be fired by a deep concern for education. He should instil a spirit and keenness about growth and development in such a way that the professiriate feels that their goals are interlinked with those of the University, that their success depends upon the success of the Universtiy. The professors should be given detailed information about the jobs that they have to perform and their good performance should be given due recognition by administration leadership. Even such small encouragement will boost their morale to greater heights. The President should have faith in his own abilities as well as on the abilities of other professors and administrators and should provide guidelines about the kind of efforts he would like his professors and administrators to make, setting an example by his own actions and exercises. The negative force of fear, when used and no one denies that an element of hardheadedness is sometimes required as a persuasive inducement to professors and administrators of university should be employed judiciously. Under no circumstances should the apathy and belligerence of the professors and administrators be aroused. These call for strong but sympathetic leadership in the President.”

19. *The Vice-Chancellor in every university is thus the conscience keeper of the University and*



constitutional ruler. He is the principal executive and academic officer of the University. He is entrusted with the responsibility of overall administration of academic as well as non-academic affairs. For these purposes, the Act confers both express and implied powers on the Vice-Chancellor. The express powers include among others, the duty to ensure that the provisions of the Act, statutes, Ordinances and Regulations are observed by all concerned [Section 11(3)]. The Vice-Chancellor has a right to regulate the work and conduct of officers and teaching and other employees of the University [Section 11(6)(a)]. He has also emergency powers to deal with any untoward situation [Section 11 (4)]. The power conferred under Section 11(4) is indeed significant. If the Vice-Chancellor believes that a situation calls for immediate action, he can take such action as he thinks necessary though in the normal course he is not competent to take that action. He must however, report to the concerned authority or body who would, in the ordinary course, have dealt with the matter. That is not all. His pivotal position as the principal executive officer also carries with him the implied power. It is the magisterial power which is, in our view, plainly to be inferred. This power is essential for him to maintain domestic discipline in the academic and non-academic affairs. In a wide variety of situations in the relationship of tutor and pupil, he has to act firmly and promptly to put down



indiscipline and malpractice. It may not be illegitimate if he could call to aid his implied powers and also emergency powers to deal with all such situations.

20. Counsel for the appellant argued that the express power of the Vice-Chancellor to regulate the work and conduct of officers of the University implies as well, the power to take disciplinary action against officers. We are unable to agree with this contention. Firstly, the power to regulate the work and conduct of officers cannot include the power to take disciplinary action for their removal. Secondly, the Act confers power to appoint officers on the Executive Council and it generally includes the power to remove. This power is located under Section 24(1)(xxix) of the Act. It is, therefore, futile to contend that the Vice-Chancellor can exercise that power which is conferred on the Executive Council. It is a settled principle that when the Act prescribes a particular body to exercise a power, it must be exercised only by that body. It cannot be exercised by others unless it is delegated. The law must also provide for such delegation. Halsbury's Laws of England (Vol. I, 4th End., para 32) summarises these principles as follows:

"32. Sub-delegation of powers.— In accordance with the maxim delegatus non potest delegare, a statutory power must be exercised only by the body or officer in whom it has been confided, unless sub-delegation of the power is authorised by



express words or necessary implication. There is a strong presumption against construing a grant of legislative, judicial or disciplinary power as impliedly authorising sub-delegation; and the same may be said of any power to the exercise of which the designated body should address its own mind."

21. The counsel for the appellant next submitted that the Executive Council in the instant case had delegated its disciplinary power to the Vice-Chancellor and the Act provides for such delegation. In support of the contention he relied upon the following resolution of the Executive Council:

"Full power be given to the Vice-Chancellor to take a decision on this question and the Vice-Chancellor informed the Executive Council that he will take decision in about a month. On this decision, Shri Gangadhar Pathrikar gave his opinion that the Executive Council should take a decision on the note dated 16-1-1979 submitted by him and other two members and since it was not accepted, he does not agree with the above decision."

22. This resolution, in our opinion, is basically faulty at least for two reasons. It may be recalled that the Executive Council without considering the report of Mr Chavan, wanted the Vice-Chancellor to take a decision thereon. It may also be noted that the Vice-Chancellor was present at the meeting of the Executive Council when the resolution was passed. He was given "full power to take a decision" which in the context, was obviously on the report of



Mr Chavan, and not on any other matter or question. He said that he would take a decision in about a month. In our opinion, by the power delegated under the resolution, the Vice-Chancellor could either accept or reject the report with intimation to the Executive Council. He could not have taken any other action and indeed, he was not authorised to take any other action.

23. The other infirmity in the said resolution goes deeper than what it appears. The resolution was not in harmony with the statutory requirement. Section 84 of the Act provides for delegation of powers and it states that any officer or authority of the University may by order, delegate his or its power (except power to make Ordinance and Regulations) to any other officer or authority subject to provisions of the Act and statutes. Section 24(1)(xli) provides for delegation of power by the Executive Council. It states that the Executive Council may delegate any of its power (except power to make Ordinances) to the Vice-Chancellor or to any other officer subject to the approval of the Chancellor. (emphasis ours) The approval of the Chancellor is mandatory. Without such approval the power cannot be delegated to the Vice-Chancellor. The record does not reveal that the approval of the Chancellor was ever obtained. Therefore, the resolution which was not in conformity with the statutory requirement could not confer power on the



Vice-Chancellor to take action against the respondent.

24. *This takes us to the second contention urged for the appellants. The contention relates to the legal effect of ratification done by the Executive Council in its meeting held on 26-12-1985/27-12-1985. The decision taken by the Executive Council is in the form of a resolution and it reads as follows:*

“Considering the issues, the Executive Council resolved as follows:

1. The Executive Council at its meeting held on 22-3-1979, had by a resolution given full authority to the Vice-Chancellor for taking further proceedings and decision in both the cases of the defaulting officers.

2. In exercise of above authority, the Vice-Chancellor appointed an Inquiry Officer and as suggested by the Inquiry Officer issued show-cause notices, obtained replies from the officers and lastly issued orders for terminating their services;

It was further resolved that—

(i) There has been no inadequacy in the proceedings against both the officers;

(ii) The punishment ordered against both the officers is commensurate with the defaults and allegations proved against both the officers; and

(iii) The Executive Council, therefore, wholly, endorses the actions taken by the then Vice-Chancellor against both the officers.”

25. *By this resolution, we are told that the Executive Council has ratified the action taken by the Vice-Chancellor. Ratification is generally an act of principal with regard to a contract or an act done by his agent. In Friedman's Law of Agency (5th*



Edn.) Chapter 5 at p. 73, the principle of ratification has been explained:

“What the ‘agent’ does on behalf of the ‘principal’ is done at a time when the relation of principal and agent does not exist: (hence the use in this sentence, but not in subsequent ones, of inverted commas). The agent, in fact, has no authority to do what he does at the time he does it. Subsequently, however, the principal, on whose behalf, though without whose authority, the agent has acted, accepts the agent’s act, and adopts it, just as if there had been a prior authorisation by the principal to do exactly what the agent has done. The interesting point, which has given rise to considerable difficulty and dispute, is that ratification by the principal does not merely give validity to the agent’s unauthorised act as from the date of the ratification: it is antedated so as to take effect from the time of the agent’s act. Hence the agent is treated as having been authorised from the outset to act as he did. Ratification is ‘equivalent to an antecedent authority’.”

26. *In Bowstead on Agency (14th Edn.) at P.39 it is stated:*

“Every act whether lawful or unlawful, which is capable of being done by means of an agent (except an act which is in its inception void) is capable of ratification by the person in whose name or on whose behalf it is done.... The words ‘lawful or unlawful’, however, are included primarily to indicate that the doctrine can apply to torts. From them it would follow that a principal by ratification may retrospectively turn what was previously an act wrongful against the principal, e.g. an unauthorised sale, or against a third party, e.g. a wrongful distress, into a legitimate one; or become liable for the tort of another by ratifying.”



27. These principles of ratification, apparently do not have any application with regard to exercise of powers conferred under statutory provisions. The statutory authority cannot travel beyond the power conferred and any action without power has no legal validity. It is ab initio void and cannot be ratified.

28. The counsel for the appellant, however, invited our attention to the case of Parmeshwari Prasad Gupta v. Union of India [(1973) 2 SCC 543 : (1974) 1 SCR 304] . It was a case of termination of services of the Secretary of a Company. The Board of Directors decided to terminate the services of the Secretary. The Chairman of the Board of Directors in fact terminated his services. Subsequently, in the meeting of the Board of Directors the action taken by the Chairman was confirmed. In the suit instituted by the Secretary challenging the termination of his services, the court upheld on the principle that the action of the Chairman even though it was invalid initially, could be validated by ratification in a regularly convened meeting of the Board of Directors. Mathew, J. while considering this aspect of the matter, observed: (SCC pp. 546-47, para 14 : SCR pp. 307-08)

“Even if it be assumed that the telegram and the letter terminating the services of the appellant by the Chairman was in pursuance to the invalid resolution of the Board of Directors passed on 16-12-1953 to terminate his services, it would not follow that the action of the Chairman could not be ratified in a regularly convened meeting of



the Board of Directors. The point is that even assuming that the Chairman was not legally authorised to terminate the services of the appellant, he was acting on behalf of the Company in doing so, because, he purported to act in pursuance of the invalid resolution. Therefore, it was open to a regularly constituted meeting of the Board of Directors to ratify that action which, though unauthorised, was done on behalf of the Company. Ratification would always relate back to the date of the act ratified and so it must be held that the services of the appellant were validly terminated on 17-12-1953. The appellant was not entitled to the declaration prayed for by him and the trial court as well as the High Court was right in dismissing the claim.”

29. *These principles of ratification governing transactions of a company where the general body is the repository of all powers cannot be extended to the present case. We were also referred to the decision of the Court of Appeal in *Barnard v. National Dock Labour Board* [(1953) 1 All ER 1113] and in particular the observation of Denning, L.J.: (All ER 1118 and 1119)*

*“While an administrative function can often be delegated, a judicial function rarely can be. No judicial tribunal can delegate its functions unless it is enabled to do so expressly or by necessary implication. In *Local Government Board v. Arlidge* [1915 AC 120 : 84 LJKB 72] the power to delegate was given by necessary implication, but there is nothing in this scheme authorising the board to delegate this function and it cannot be implied. It was suggested that it would be impracticable for the board to sit as a board to decide all these cases, but I see nothing impracticable in that. They have only to fix their quorum at two members and arrange for two members, one from each*



side, employers and workers, to be responsible for one week at a time.

Next, it was suggested that, even if the board could not delegate their functions, at any rate they could ratify the actions of the port manager, but, if the board have no power to delegate their functions to the port manager, they can have no power to ratify what he has already done. The effect of ratification is to make it equal to a prior command, but as a prior command, in the shape of delegation, would be useless, so also is a ratification.”

30. *These observations again are of little assistance to us since we have already held that there was no prior delegation of power to the Vice-Chancellor to take disciplinary action against the respondent. There was no subsequent delegation either. Therefore, neither the action taken by the Vice-Chancellor, nor the ratification by the Executive Council could be sustained.*

31. *In the result, the appeal fails and is dismissed with costs.”*

10. In view of the aforesaid facts and circumstances, I am of the view that no reliance can be placed upon the said ratification order dated 28.07.2021 passed by the 1st respondent in support of its claim, which cannot be accepted in the facts and circumstances of the instant case.



11. The 1st respondent also placed reliance upon the provisions contained in Section 15(5) of the said Act of 2000 to contend that the 1st respondent – Vice Chancellor was entitled to pass the impugned order in addition to contending that the petitioner had an equally efficacious alternative remedy by way of an appeal under second proviso to the said provision; in order to appreciate this contention, it is necessary to extract Section 15(5) of the said Act of 2000, which reads as under:

“15. Powers of the Vice-Chancellor.-

(5) In case of emergency which, in his opinion, requires immediate action, the Vice-Chancellor shall take such action as he deems necessary and shall at the earliest opportunity thereafter report the action taken to such authority or body which in the ordinary course would have dealt with the matter:

Provided that if the action taken by the Vice-Chancellor is not approved by the Authority or body concerned, he may refer the matter to the Chancellor whose decision thereon shall be final:

Provided further that any person in the service of the University affected by the decision of the Authority or body based on the report of the Vice-Chancellor under this sub-section may prefer an appeal to the Chancellor within thirty days from



the date on which the decision was communicated to him and the decision of the Chancellor on such appeal shall be final:

Provided also that the powers vested under this sub-section shall not be exercised to revise the pay scale of University employees or to grant affiliation to a college or a course of instruction and if in the exercise of the powers under this sub-section, Statutes or Regulations are framed, they shall be subject to the approval of the Chancellor under the relevant provisions of this Act and if Ordinances are made they shall be submitted to the Chancellor in accordance with this Act."

12. A plain reading / bare perusal of the aforesaid provision will clearly indicate that the 1st respondent – Vice Chancellor would be entitled to take such action as he deems necessary only in case of emergency, which in his opinion requires immediate action; in the instant case, a perusal of the impugned order will clearly indicate that Section 15(5) of the said Act of 2000 has not been invoked by the 1st respondent; further, since the prescribed period of 30 days for filing an appeal against the order of the DCVC dated 30.03.2021 had not expired as on the date of the impugned order, there was no urgency / emergency requiring immediate action by



the 1st respondent for the purpose of invocation of Section 15(5) of the said Act of 2000; so also, the impugned order does not refer to any opinion formed by the 1st respondent that he deemed it necessary to take immediate action, which was due to an emergency caused on account of the DCVC cancelling the Caste Certificate of the petitioner. Under these circumstances, in the absence of any material to establish either that the emergency provisions contained in Section 15(5) of the said Act of 2000 had been factually and legally invoked by the 1st respondent – Vice Chancellor, I am of the view that the said provision was neither applicable nor invocable / invoked for the purpose of the impugned order, which deserves to be quashed on this ground also and the contention urged on behalf of the 1st respondent cannot be accepted.

13. While the petitioner contends that the impugned order passed by the 1st respondent – Vice Chancellor on 15.04.2021 within 16 days from the date of the order passed by the DCVC on 30.03.2021 was violative of principles of natural justice, since no enquiry was conducted by the 1st respondent, who did not notify or provide any opportunity to the petitioner before passing the



impugned order, the 1st respondent would place reliance upon the judgments of the Apex Court in the cases of ***Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and Others – AIR 1995 SC 94, R. Vishwanatha Pillai Vs. State of Kerala and Others – (2004) 2 SCC 105; Vijay Kishanrao Kurundkar and another Vs. State of Maharashtra and others – AIR 2020 SC 3715, Chairman and Managing Director, Food Corporation of India and Others Vs. Jagdish Balaram Bahira and Others – (2017) 8 SCC 670; Dr. N. Maruthi Rao Vs. The Rani Channamma University and Others – W.P.No.106080/2024 dated 12.01.2026*** in order to contend that immediately upon receipt of information from the DCVC about the order dated 30.03.2021 cancelling the Caste Certificate of the petitioner, it was open for the 1st respondent to take immediate action including passing the impugned order, which was not violative of principles of natural justice; in this context, it is relevant to state that it is an undisputed fact and a matter of record that the DCVC passed the aforesaid order on 30.03.2021 cancelling the Caste Certificate of the petitioner under Section 4C of the said Act of 1990, which was appealable under Section 4D of the said Act of 1990, which



provided the prescribed period of 30 days from 30.03.2021; it is also a matter of record and not in dispute that the petitioner had already filed an appeal on 08.04.2021 before the 2nd respondent – Appellate Authority under Section 4D of the said Act of 1990 along with an application for stay; though it may not have been necessary for the 1st respondent – Vice Chancellor to conduct an enquiry once again for the purpose of adjudicating upon the petitioner’s Caste Certificate or conduct an enquiry for the purpose of imposing penalty upon him pursuant to the order of the DCVC, it was definitely incumbent upon the 1st respondent to at least notify the petitioner and to give him an opportunity to have his say as regards the order of the DCVC dated 30.03.2021, that to before expiry of the appeal period which expired on 30.04.2021; in other words before proceeding to unilaterally / summarily dismiss the petitioner from service on the basis of the DCVC order dated 30.03.2021, principles of natural justice, equity, justice, good conscience, etc., clearly required the 1st respondent to notify the petitioner and hear him before passing the impugned order prior to expiry of the appeal period. In the instant case, in the absence of any material to establish that the 1st respondent notified the petitioner and provided



him an opportunity to have his say pursuant to the order dated 30.03.2021 passed by the DCVC, I am of the considered opinion that the impugned order dated 15.04.2021 passed before expiry of the appeal period of 30 days was clearly illegal and arbitrary and the same deserves to be quashed on this score also.

14. Insofar as the contention of the 1st respondent that the present petition is not maintainable / entertainable in view of availability of equally efficacious and alternative remedy by way of an appeal under the second proviso to Section 15(5) of the said Act of 2000 is concerned, in view of the findings recorded by me hereinbefore that the said provisions contained in Section 15(5) were not applicable to the facts of the instant case, even this contention urged by the 1st respondent cannot be accepted.

15. In view of the aforesaid facts and circumstances, I am of the opinion that the impugned order dated 15.04.2021 passed by the 1st respondent – Vice Chancellor of Kuvempu University is illegal, arbitrary and contrary to law and facts and without jurisdiction or authority of law and the same deserves to be quashed.



16. In the result, I pass the following:

ORDER

- (i) Petition is hereby allowed.
- (ii) The impugned order at Annexure – A dated 15.04.2021 passed by the 1st respondent – Vice Chancellor of Kuvempu University is hereby quashed.

**Sd/-
(S.R.KRISHNA KUMAR)
JUDGE**

SV/SRL
List No.: 19 Sl No.: 3