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State University Act vs. UGC Regulations

Why in news?

Two recent judgments of the Supreme Court on the appointment of vice chancellors (VC) are being criticised for eroding the federalism, as education is a subject under Concurrent list.

What are the cases?

- ***Gambhirdan K. Gadhvi vs The State Of Gujarat*** - The Court has quashed the appointment of the incumbent Vice Chancellor.
- It was because the search committee did not form a panel for the appointment of VC, and, therefore, was not in accordance with the UGC Regulations of 2018.
- Since the State law was repugnant (contrary) to the UGC regulations, the court held that latter would prevail and the appointment under the State law had become void.
- ***Professor (Dr) Sreejith P.S vs Dr. Rajasree M.S.*** - The appointment of the VC was challenged on the ground that the search committee recommended only one name, which is against the UGC Regulations.
- The Court quashed the appointment on the ground that the provision relating to the search committee in the University Act is repugnant to the UGC Regulations, and was therefore void.
- The judgement prompted Kerala Governor, Arif Mohammad Khan, who is the Chancellor of all the universities in Kerala, to ask as many as 11 VCs of universities of the State to resign immediately.

What is the core of the issue?

- The issue framed is about whether the appointment of VCs should be made as per the UGC Regulations or the provisions of the State University Act.
- Under the Indian Constitution, **education** is a subject on the **concurrent list** and hence both the Union and the State can legislate on it.
- A VC is appointed by the Chancellor under the relevant University Act, but the Supreme Court has brought in **Article 254** of the Constitution.

> *Article 254 - If provisions of the State law are repugnant to the provisions of the Union law, the State law will become void.*

What are the faults in the Court's judgment?

- **Interpretation of Article 254** - Article 254 shows that the repugnancy under this Article relates to a State law and a substantive law made by Parliament and thus excludes rules, regulations, etc.
- So, it can only mean the substantive law and not the subordinate law.
- Rules and regulations are made by subordinate authorities, in the case the UGC, whereas the substantive law is made by the superior authority, namely Parliament.
- **Equating the Act with rules** - The rules and regulations made by the subordinate authority, though laid in Parliament, do not require Parliament's approval.
- **Definition of law** - The definition of law given in Article 13(2) is applicable only to that Article and has no application to other Articles.
- It means that the term law does not include the rules, regulations, etc. for the purpose of Article 254.
- **Effect on federalism** - The regulations made by a subordinate authority of the Union overriding a law made by a State legislature will amount to a violation of federal principles.
- It also nullifies the concurrent legislative power granted to the State by the Constitution.
- **Beyond the UGC Act** - Section 26 of the UGC Act, which empowers the UGC to make regulations, would show that the appointment of a VC is not a matter on which the UGC can make regulations.
- Hence, the UGC Regulations on the appointment of VCs are outside the scope of the main provisions of the UGC Act.

What is the need of the hour?

- Article 254 needs to be analysed in depth to make it clear that a State law can be repugnant only to the central Act, and not the regulations and rules made there under.
- In ***S. Satyapal Reddy vs Govt. Of A.P. (1994),*** the Supreme Court held that the court has to make every attempt to reconcile the provisions of the apparently conflicting laws.

Related Links- Governor's role in State, Central Universities

References

1. The Hindu | This unseating of vice chancellors is faulty
2. Indiankanoon | Article 254 in the Constitution of India



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