(1954) 10 AHC CK 0007

Allahabad High Court

Case No: Writ Petition No. 872 of 1954

Dr. Ishwari Prasad		APPELLANT
	Vs	
Registrar, University of Allahabad and Others		RESPONDENT

Date of Decision: Oct. 29, 1954

Acts Referred:

- Allahabad University Act, 1921 - Section 42
- Constitution of India, 1950 - Article 226

Citation: AIR 1955 All 131

Hon'ble Judges: Mootham, J

Bench: Single Bench

Advocate: Gopal Sarup Pathak, for the Appellant; A.G., for the Respondent

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

Mootham, J.
This is a petition under Article 226 of the Constitution which raises a question of constitutional law of considerable importance. It has involved the examination of a number of authorities, and I am indebted to learned counsel on both sides for the full and able arguments which have been addressed to me. The facts shortly stated are that the petitioner, Dr. Ishwari, Prasad, was a Professor in the University of Allahabad and Head of the Department of Political Science until the 13-3-1954, on which date he retired from the service of the University. He was also a member of the Academic Council of the University and, as such, was under head (vi) of Section 17 of the Allahabad University Act, 1921, an ''ex officio'' member of the Court, which is the supreme governing body of the University.

2. The executive body of the University is the Executive Council, the constitution of which is laid down in the Statutes to be found in Chap. II of the Statutes, Ordinances

and Regulations made under the Act. The Executive Council consisted at all material times of twenty members, of whom six were members of the Court elected by the Court at its annual meeting. At the annual meeting of the Court held in November, 1952, the petitioner was elected to the Executive Council. The only limitation which is placed by the Statutes on the power of the Court to elect six of its members to the Executive Council is that two of the persons so elected must be members who were themselves elected to the Court by the registered graduates. Of the six persons who were so elected in 1952 I am informed that four were members of the Court elected by the registered graduates; Dr. Ishwari Prasad was not one of these.

3. Under head Cxviii) of Section 17 of the Act read with Clause (ii) of the first Statute relating to the Court, the Chancellor of the University is empowered to appoint not more than fifteen persons to be members of the Court, and by a letter dated the 8-3-1954, the Chancellor in exercise of the power so vested in him appointed the petitioner to be a member of the University Court in place of Sri K. L. Misra:

"with effect from the date of the former''s retirement from the post of Professor and Head of the Department of Political Science of the Allahabad University, viz., 12-3-1954, for the residue of the term of office of Sri K. L. Misra, Viz., up to 14-12-1955".

It is common ground that the reference to March 12 is a mistake for March 13.

4. The question then arose whether the petitioner continued to be a member of the Executive Council after the 13th March, and it arose in this way : Clause (ii) of the first Statute relating to the Executive Council provides that members of the Council other than ''ex officio'' members, and it is not suggested that the petitioner was an ''ex officio'' member of the Executive Council, shall hold office for a period of three years, but this rule is subject to the following proviso:

"Provided that a member appointed or elected as a member of a particular body or as a holder ''of a particular post shall hold office so long only within that period as he continues to be a member of that body or the holder of that post, as the case may be."

A difference of opinion having arisen as to whether the case of the petitioner fell within the ambit of this proviso, the Vice-Chancellor referred to the Chancellor, as he was authorised to do u/s 42 of the Act, the question whether the petitioner was entitled to be a member of the Executive Council after 13-3-1954. On 20-S-1954, the Chancellor by an order of that date decided that he was not so entitled. The petitioner thereupon filed this petition, the respondents being the University of Allahabad and the Chancellor, Vice-Chancellor and the Registrar thereof. The petitioner contends that the decision of the Chancellor that he is not entitled to be a member of the Executive Council is erroneous and he prays, first, for the issue of a writ of ''certiorari'' to quash that decision and, secondly, for the issue of a writ of ''mandamus'' directing the respondents not to interfere with his attendance at

meeting of the Executive Council and in the performance of his functions as such member.

5. Section 17 of the Act read with Clause (iv) of the first Statute relating to the Court also makes provision for the nomination of members of the Court by certain associations and individuals who have made donations or annual contributions to the University, and it is part of the petitioner''s case that on the" 15-12-1954, he was so nominated a member of the Court by the Government of Nepal.

6. It is common ground that the order of the Chancellor is what is commonly known as "a speaking order", that is to say, it is an order Which states the grounds upon which the decision embodied in the order is founded; and the two principal questions which arise in this petition are, first, whether this Court has authority under Article 226 of the Constitution to quash by a writ, of ''certiorari'' an order made by a tribunal subject to the supervision of this Court which Is on the face of it erroneous in law and, secondly, if the answer to that question be in the affirmative, whether the order under consideration suffers from such defect.

7. Before however I consider these questions it is necessary for me to determine whether the Chancellor acting in the exercise of the. powers conferred upon him by Section 42 of the Act constituted in law a tribunal subject to this Court''s superintendence. That will depend upon whether in the exercise of these powers the Chancellor was required to act in a judicial or quasi-judicial capacity, for it is not a matter of dispute in this case that the question which he had legal authority to determine was one which affected the rights of the petitioner. Now it has been held by a bench of this Court in -- Rameshwar Prasad Kedarnath Vs. The District Magistrate and Others, , a decision which is binding on me that since the decision of the Supreme Court in -- '' Province of Bombay Vs. Kusaldas S. Advani and Others, , the test is a comparatively simple one: Did the enactment which conferred authority on the Chancellor to decide the matter in dispute impose on him either specifically or by necessary implication the duty to act judicially?

8. It is therefore necessary to examine the relative provisions of the Allahabad University Act, 1921. There is however only one section which requires consideration, Section 42, which reads thus :

"42. If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final."

This section confers upon the Chancellor powers which are in a general sense of an appellate nature, and to the extent that that is so the remarks of Viscount Halding, L. C., in -- ''Local Govt. Board v. Arlidge 1915 AC 120 at p. 132 (C), are apposite, for the Lord Chancellor there said:

"My Lords, when the duty of deciding an appeal is imposed, those who^e duty it is to decide it must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the caw made. The decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice."

I may say at once that it is no part of the petitioner''s argument that he did not have a full opportunity of presenting his case, nor is it suggested that there was any want of a sense of responsibility on the part of the Chancellor in deciding the question before him. The real question is I think this: Does the section impose on the Chancellor the duty of deciding the dispute referred to him in accordance with the provisions of the University Act and the Statutes made thereunder, or has he to consider the matter from the point of view of policy and expediency? The section enacts that the Chancellor shall determine whether any person

"has been elected or appointed as, or is entitled to be, a member of any authority or other body of the University."

The expressions ''duly elected or appointed'' and ''entitled to be'' clearly refer, in my opinion, to the legal rights of the person concerned under the Act and Statutes, and the Advocate-General agreed that the Chancellor could not otherwise dispose of the question referred to him. In such circumstances I can entertain no doubt that the section imposes on the Chancellor the duty to act judicially in arriving at his decision.

9. I now turn to the first of the two main questions in this case, namely, a consideration of the circumstances in which this Court can quash by ''certiorari'' an order made by an inferior tribunal on the ground that it is wrong in law. In -- Deoria Sugar Mills Ltd., Deoria Vs. Govt. of U.P. and Others, All a Full Bench of this Court -held that the wrong interpretation of a provision of law, or the application of a provision of law which was not applicable by an inferior tribunal in arriving at its decision, did not constitute an error apparent on the face of the record or proceedings which would justify interference by the issue of a writ of ''certiorari''. That is of course also a decision, binding on me and ''prima facie'' concludes the question against the petitioner.

Shortly afterwards however came the decision of the Supreme Court in -- T.C. Basappa Vs. T. Nagappa and Another, . The first of the two questions which arose for consideration in that case .was on what grounds could a High Court in exercise of its powers under Article 226 of the Constitution grant a writ of'' ''certiorari'' to quash an adjudication by an election tribunal. The Court considered briefly the reasons which led the makers of the Constitution to insert Article 226 in the Constitution, and pointed out that the purpose was "apparently to place ail the High Courts in this Country in somewhat the same position as the Courts of King''s Bench In England." And on page 443 of. the Report B. K. Mukherjea J., who delivered the

judgment of the Court said:

"We can make on order or issue a writ in the nature of ''certiorari'' in all appropriate cases and in appropriate manner, so long as we keep to the broad and fundamental principles that regulate the exercise of jurisdiction in the matter of granting such writs in English law."

On the following page the learned Judge said further:

"The essential features of the remedy by way of ''certiorari'' have been stated with remarkable brevity and clearness by Morris L. J., in the recent case of -- ''Res v. Northumberland Compensation Appellate Tribunal 1952 1 KB 333 at p. 357 (F). The Lord Justice says:

"It is plain that Certiorari'' will not issue as the cloak of an appeal in disguise. It does not lie in order to bring up an order or decision for re-hearing of the issue raised in the proceedings. It exists to correct error of law when revealed on the face of an order or decision or irregularity of absence of or excess, of jurisdiction whetf shown."

In dealing with the powers of the High Court under Article 226 of the Con.stiiut.Son this Court has expressed itself in almost similar terms, vide .-- Veerappa Pillai Vs. Raman and Raman Ltd. and Others, and said:

''Such writs as are referred to in Article 226 are obviously intended to enable the High Court to issue them in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is error apparent- on the face of the record, and such act, omission, error or excess has resulted in manifest injustice. However extensive the jurisdiction may be, it seems to us that it is not so wide or large as to enable the High Court to convert itself into a Court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or the order to be made.

These passages indicate with sufficient fullness the general principles that govern the exercise of jurisdiction in the matter of granting writs of ''certiorari'' under Article 225 of the Constitution."

It is convenient at this point to endeavour to ascertain a little more fully what are "the broad and fundamental principles" which regulate the exercise of this jurisdiction by the English Courts, and for this purpose I desire to refer to four cases. The first of these is -- ''Reg. v. Bolton (1341) 1 QB 66 at p. 72 (H), described in a later case as summarising in impeccable form the principles of the law of ''certiorari''. Lord Denman there said:

"The case to be supposed is one..... in which the Legislature has trusted the original, it may be (as here) the final, jurisdiction on the merits to the magistrates below; in

which this Court has no jurisdiction as to the merits either originally or on appeal. All that we can then do.....is to see that the case was one within their jurisdiction, and that their proceedings on the face of them are regular and according to law....."

In -- ''Walsall Overseers v. London and North Western Rly. Co. (1878) 4 AC 30. 40 (I), Lord Cairns L. C., said:

"But supposing that the Court of Quarter Sessions did not adopt that course, there was still another mode by which any question of law which appeared to the Court of Quarter Sessions doubtful, might be left open for the exercise of the judgment of a higher tribunal. All that was necessary was that the Court of Quarter Sessions, in making its order, should not make it an unspeaking or unintelligible order, but should, in some way state upon the face of the order, the elements which had led to the decision of the Court of Quarter Sessions.

If the Court of Quarter Sessions stated upon the face of the order, by way of recital, that the facts were so and so, and the grounds of its decision were such as were so stated, then the order became upon the face of it. a speaking order: and if then that which was stated upon the face of the order, in the opinion of any party. was not such as to warrant the order, then that party might go to the Court of Queen''s Bench and point to the order as one which told its own story, and ask the Court of Queen''s Bench to remove it by ''certiorari'', and when so removed to pass judgment upon it, whether it should or should not be quashed.

In that case, as I said just now, the jurisdiction of the Court of Queen''s Bench was merely a jurisdiction to leave the order standing or to remove it out of the way. It was not a jurisdiction to substitute for it another or a different order; that would be making the Court, of Queen''s Bench, in the ordinary sense of the term, a Court of re-hearing or of appeal."

The third case to which I want to refer is --''Rex v. Nat Eell Liquors Ltd. 1922 2 AC 128 (J) In which Lord Sumner delivering the judgment of the ''Privy Council said, at page 156 with regard to the superior Court''s powers of supervision:

"That supervision goes to two points: one is the area of the inferior jurisdiction and the qualifications and conditions of its exercise; the other is the observance of the law in the course of its exercise.''''

Finally, in 1952 1 KB 338 (F), Singleton L, J., said at p. 344:

"The decision of the tribunal was a ''speaking order'' in the sense in which that term has been used.'' The Court is entitled to examine it, and if there be error on the face of it, to quash it --"not to substitute another order in its place, but to remove that order out of the way, as one which should not be used to the detriment of any of the subjects of Her, Majesty", as Lord Cairns said in the Walsall case (I)."

10. There can therefore1 in my opinion be no doubt that, in England, if the record of the proceedings of an inferior tribunal discloses on examination an error of law the proceedings can be quashed by a writ of ''certiorari''. The question I have to consider is whether the Supreme Court in Basappa''s case (E) has declared such to be the law in India or whether, as argued by the Advocate General, the Supreme Court has in that case taken the view that the English rule is to be applied in India subject to certain modifications or limitations. The Advocate-General in his very able argument has urged that the superior Court can interfere only where the error apparent on the face of the record involves an incorrect statement of the law and not merely an erroneous application or misinterpretation of the law; if for example, the inferior Court misquotes the section of an Act, that is an error apparent on the face of the record, but if the Court quotes the section correctly and then proceeds to misapply it there is no such error.

An objection to this contention which Immediately suggests itself is--as the Advocate-General frankly agreed--this, that although the Supreme Court has said clearly that the essential features of the remedy by way of ''certiorari'' have been stated in the Northumberland Tribunal case (F) yet. nevertheless, as there was in that case no misquotation of a provision of law the Supreme Court itself would, had it the Northumberland case (F) before it. have decided it in a contrary sense to that of the English Courts. This is to me a somewhat surprising conclusion, but the Advocate-General places great reliance on two passages in the judgment of Mukherjea J., in Basappa''s case (E) and on the decision of the Supreme Court in the earlier case of -- Parry and Co. Ltd. Vs. Commercial Employees'' Association, Madras, . The two passages in Basappa''s case (E) relied on by the Advocate-General are to be found on page 444 of the Report in the All India Reporter. What the learned Judge says there is:

"In granting a writ of ''certiorari'' the superior Court does not exercise the powers of an appellate tribunal. It does not review or re-weigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal."

And then again, lower on the same page, the learned Judge says:

"An error in the decision or determination itself may also be amenable to a writ of ''certiorari'' but it must be a manifest error apparent on the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by ''certiorari'' but not a mere wrong decision."

I do not think that there can be .read into these passages the meaning which the Advocate-General attributes to them. What it appears to me, if I may say so with very great respect, that the learned. Judge is seeking to do is not to modify but to

explain and amplify the statement of law immediately preceding each of these passages. There can be no doubt that In the exercise of its jurisdiction to issue a writ of ''certiorari'' the Court does not, and has no power to, substitute its own views for those of the inferior tribunal, nor has it power to quash a decision because it thinks it wrong unless the error is an error of law and is apparent on the face of the record. The expressions used by the learned Judge, "palpably erroneous", ."manifest error" and "patent error" mean, in my judgment error which is apparent,, that is to say apparent on the face of the record.

It is, I think, very significant that interposed between the two passages which I have quoted the learned Judge makes a reference to the case of the -- ''King v. Nat Bell Liquors Ltd. (J)'' as authority for the proposition that the supervision of the superior Courts exercised through writs of ''certiorari'' is exercised not only with regard to the area of inferior jurisdiction but to the observance of law in the course of its exercise. I find it difficult to think that if the Supreme Court had desired to approve the principles laid down in the -- ''Northumberland Tribunal case (F) subject to certain reservations or qualifications it would not have stated what those modifications were.

11. In Parry and Co. Ltd. Vs. Commercial Employees'' Association, Madras, , the Supreme Court held that the Madras High Court could not issue a writ of ''certiorari'' to quash a decision passed within its jurisdiction by a Labour Commssioner under the Madras Shops and Establish--ments Act, 1947, on the ground that the decision. was erroneous. It is however argued for the petitioner that the view taken in that case of the ambit of the Court''s power to issue a writ of ''certiorari'' has undergone ''a change, and that this Court must be guided by the principles laid down in Basappa''s case (E). I find it difficult, if I may say so with the greatest respect, wholly to reconcile the two decisions, and I conceive it therefore to be my duty to follow and apply what I believe to be the principles laid down in the later case.

In recent years the scope of ''certiorari'' appears to have been somewhat forgotten in England; it was restored to its rightful position in the Northumberland Tribunal case (F), where it was shown that it can be used to correct errors of law which appear on the face of the record even though they do not go to jurisdiction. With the greatest respect, the Supreme Court in Basappa''s case (E) has, in my judgment, declared that the supervisory powers of High Courts in India are no less wide than they are in England.

12. It is convenient at this stage to refer to an argument of the Advocate-General that any development in England of the law relating to ''certiorari'' since the coming into force of the Constitution does not form part of the law in India, for the framers of the Constitution intended in Article 225 to subject the Court''s power to issue ''certiorari'' to the same restrictions as were at that date applicable in England. The short answer to this submission is, I think, that the ''Northumberland Tribunal case (F)'', did not extend but merely declared what the law was and the fact that the

correction of an error on the face of the record by a writ of ''certicrari'' had been little used in recent years did not mean that the basis for the exercise of the power had fallen into abeyance (see the judgments of Denning L.J., at page 348 and of Morris L. J., at page 356).

13. I ought also to make some reference to two other cases to which my attention was invited by learned counsel. Reliance was also placed by both sides on the decision of the Privy Council in -- AIR 1923 66 (Privy Council) a case in which it was held that the decision of an arbitrator could not be set aside on the ground that the mistake of law, if mistake there was, made by the arbitrators did not appear on the face of the award. In my view this case is not of assistance because the remedy in the event of an error of law appearing on the face of an award of an arbitrator is by way of action on the award; the Court in England never interefers with such an award by ''certiorari'': see the ''Northumberland Tribunal case (F)'', at p. 351.

The Second case is the unreported decision of a bench of this Court in -- Dr. Brijendra Swarup Vs. Election Tribunal at Lucknow and Others, . Sri Fathak says that in this case the Court acted upon the view of the law as stated in the ''Northumberland Tribunal Case (F)'', and quashed an order made by the respondent Tribunal on the ground that it contained an error apparent on the face of the record. I do not think that this can with certainty be said to be so. Their Lordships say:

"A question has arisen whether we should interfere at this stage in the exercise of our jurisdiction under Article 226 or Article 227 of the Constitution. The view of law taken by the Tribunal is, however, so palpably erroneous that unless it is corrected at this stage it is likely to further complicate matters. We have, therefore, decided to express our opinion on the points of law so that the Tribunal may not engage itself in enquiries which may be wholly irrelevant to the relief claimed before it. The Tribunal will now act according to the view of law enunciated by us above and consider whether the paragraphs objected to contain any grounds which are relevant to the relief claimed, and if so, confine itself only to such issues out of those that it might have framed and take evidence which might be relevant for the grant of the relief claimed in the petition. We order accordingly....."

No authorities are cited, and in my opinion the Court was exercising its powers of superintendence under Article 227 of the Constitution. The case, therefore, is not of assistance to us.

14. I turn now to the second of the two main questions in this case whether the Chancellor''s order of the 20-8-1954 is on its face erroneous in law. The Chancellor in a full and careful order extending over some six pages decided that the petitioner was not entitled to continue as a member of the Executive Council after the 13-3-1954. This decision is based on the interpretation placed by the Chancellor on the proviso to Clause (ii) of the first Statute relating to the Executive Council. The view of the Chancellor shortly, but I hope not inaccurately, stated is that although

there has been no interruption in the petitioner''s membership of the Court the status of his membership underwent a radical alternation; up to the close of the 13 March his status was that of an ''ex officio'' member but thereafter he became a member in his individual capacity, and this'' change of status operated to bring to ah end his membership of the Executive Council. In order to appreciate the meaning of the proviso in question it is convenient to read the whole of the Statute of which it is a part.

"1. (1) The members of the Executive Council, in addition to the Vice-Chancellor and the Treasurer, shall be -

Class I -- Ex Officio Members

The Deans of the Faculties.

Class II --- Other Members,

(i) Six members of the Court, elected by the Court at its annual meeting of whom two must be from among members of the-Court elected by the registered graduates;

(ii) (a) Two Principals, elected by the Principals of Colleges, and

(b) One member elected by the Wardens, the Chairman of the Delegacy and the Proctor from among themselves;

(iii) Two members elected by the Academic Council from its own body;

(iv) Three members appointed by the Chancellor.

(2) Members other than ''ex offlcio'' members shall hold office for a period of three years."

Then comes the proviso to which I have referred;

"Provided that a member appointed or elected as a member of a particular body or as the holder, of a particular post shall hold office so long only within that period as he continues to be a member of that body or the holder of that post, as the case may be."

The proviso is not perhaps very aptly worded, for the only appointed members of the Executive Council are the three members appointed by the Chancellor under Head (iv) of Clause (i) of the Statute; such persons need not be members of any particular body or the holders of any particular post, and consequently the proviso has no application to them. It is I think clear that the reference in the proviso to the holders of particular posts can be a reference only to members of the Executive Council who fall into one or other of the categories for which provision is made under Head (ii). It is equally clear that the reference to members of a particular body is a reference to the members of the Executive Council who belong to the categories

for which provision is made under Head (i) or (ii), that is as members either of the Court or of the Academic Council elected by the Court or the Academic Council respectively. In the case, therefore, of a member of the Executive Council who ''comes under Head (i), what the proviso lays down is that he shall hold office as a mem-ber of the Executive Council for so long only within the period of three years as he continues to be a member of the Court. The petitioner comes within that category, and unless there has been a break in the continuity of his membership of the Court, he is entitled to be a member of the Executive Council.

15. The Advocate-General, in support of the view taken by the Chancellor, contends that Section 17 of the Act divides members of the Court into three classes -- ''Ex officio'' members, life members and other members -- and that membership cannot be considered apart from capacity (by which I understand is meant qualification for membership) and tenure of membership. From this he argues that if the status of the member changes during his period of membership, if, for example, an ''ex officio'' member becomes a life member, then although his membership of the Court continues without interruption it is not in law the same membership and he can no longer be said "to continue to be a member" within the meaning of the proviso. I find myself unable to accept this argument.

The proviso states that the condition for continuance of office as a member of the Executive Council is, in the case of a member elected by the Court, his continuance as a member of the Court. The words "continues to be a member of that body" in this case, of the Court are, in in a phrase used by Lord Greene,. M. B. in --''Robinson v. London Brick Co. Ltd. 1942 2 All ER 106 . 108 (N), "plain, simple and unqualified". The Advocate-General admits that his argument involves this; that the proviso must be construed as if after the phrase ''member of that body'' there are deemed to be added the words ''in the same capacity as he was elected or appointed to it''. It Is however a well-known rule of construction that if there is nothing to modify or quaiify the language which the Statute contains it must be construed in the ordinary and natural meaning of the words.

In the case to which I have just referred both the Court of Appeal in England and the House of Lords declined to construe the words "if the workman leaves a widow" in Section 8 of the Workmen''s Compensation Act as if they were followed by the words "who is claiming compensation under the Act", despite the surprising conse quences which would follow, on the ground that there was no sufficient context in the Act to qualify the meaning of words which were in themselves plain and unambiguous. It is said that the University Court, when electing the petitioner to the Council, must have taken into account the fact that the petitioner''s tenure of office was limited, and the proviso must be se construed as to allow effect to be given to this fact. . Apart from the consideration that there is nothing before me to show that the Court was so influenced, I am of opinion that the proviso cannot be construed in this way. "It is elementary that the primary duty of a Court is to give effect to the intention of

the legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention -- " The New Piecegoods Bazar Co. Ltd., Bombay Vs. The Commissioner of Income Tax, Bombay, . In my opinion the words "continues to be a member of that body" mean no more that what they say. The capacity in which the person con-cerned is a member is not material. It is common ground that the petitioner in fact continued, and continues, to be a member of the Court, and in my judgment the condition prescribed by the proviso has been fulfilled. I am bound therefore to hold that the Chancellor''s order is erroneous in law.

16. Finally the Advocate-General submits that even if the. Chancellor''s order be erroneous the Court ought, in the exercise of its discretion, to refrain from interference in what is essentially a University matter. His contention is that the order was made in good faith -- that of course no one disputes -- and that the harmonious working of the University requires the unquestioning acceptance of the decisions of the Chancellor; the Court should therefore give no encouragement to persons who think themselves to be aggrieved by such orders even though their legal rights may be affected thereby.

This Court is always reluctant to interfere in matters relating to the management of educational bodies, and I should hesitate, if I were free to do so, before making an order which could be construed as affecting the proper autonomy of the University. The Court''s discretion must however be exercised on judicial prin-ciples, and in my opinion the question is whether there is any thing in the conduct of the petitioner which disentitles him from the relief which he seeks. No case has been brought to my notice in which ''certiorari'' has been refused on the ground suggested by the Advocate-General, and I think the petitioner is entitled to his order. A writ of ''certiorari'' will accordingly issue quash-ing the order of the Chancellor dated 20-8-1954.

17. In the circumstances it is unnecessary for one to consider the suomissions of Sri Pathak that the petitioner was nominated a member of the Court by the Government of Nepal with affect from 15-^-1954, or that the nomination by the Chancellor was effective from midnight Of 12-3-1954.

18. The petitioner also prays for the issue of A mandamus. There is however no evidence before me which shows that the University authorities intend notwithstanding the quashing of the Chancellor''s order to interfere in any way with the petitioner, and the Advocate-General has stated that they have no such intention. This prayer therefore fails.

19. In the circumstances, I shall make no order as to costs.