



# सम्पूर्णानन्द संस्कृत विश्वविद्यालय, वाराणसी

## कार्यपरिषद् की बैठक

दिनांक -24.03.2014

समय - पूर्वाह्न 11:00 बजे से

स्थान - योग साधना केन्द्र

### उपस्थिति

#### 1-प्रो. बिन्दा प्रसाद मिश्र, कुलपति- अध्यक्ष

2-प्रो. हरिशंकर पाण्डेय

4-डा. प्रभु सिंह यादव

6-प्रो. यदुनाथ प्रसाद दुबे

8- डा. ललित कुमार चौबे

10-डा. शैलेश कुमार मिश्र

12-कुलसचिव - सचिव

3- प्रो. आशुतोष मिश्र

5- डा. राजनाथ

7-डा. हरिप्रसाद अधिकारी

9- प्रो.रामकिशोर त्रिपाठी

11-वित्ताधिकारी

सर्वप्रथम कुलपति महोदय ने सभी सदस्यों का अभिनन्दन करते हुए कार्यपरिषद् की कार्यवाही प्रारम्भ करने की अनुमति प्रदान की।

### कार्यक्रम -

“माननीय उच्च न्यायालय, इलाहाबाद द्वारा याचिका संख्या-37995/2012 रविशंकर पाण्डेय बनाम स्टेट ऑफ यू.पी. एवं अन्य में पारित आदेश दिनांक 06.03.2014 के परिप्रेक्ष्य में माननीय उच्च न्यायालय, इलाहाबाद द्वारा याचिका संख्या-22953/2007, डा. रविशंकर पाण्डेय बनाम उत्तर प्रदेश राज्य एवं अन्य में पारित आदेश दिनांक 24.02.2012 के सम्बन्ध में आदेश संख्या E-5496/G.S., दिनांक 24.07.2012 द्वारा दिये गये मा. कुलाधिपति महोदय के आदेश के क्रियावयन पर विचार”

कार्यपरिषद् को कुलसचिव ने अवगत कराया कि-

1. विश्वविद्यालय आदेश सं.वी.सी./11/2005, दिनांक 23.01.2005 द्वारा डा. प्रमोदिनी पण्डा की नियुक्ति प्राध्यापक- संस्कृत विद्या विभाग में की गयी थी।
2. डा. प्रमोदिनी पण्डा ने दिनांक 23.01.2005 को अपराह्न में ही उक्त पद पर कार्यभार ग्रहण कर लिया था।
3. डा. प्रमोदिनी पण्डा की नियुक्ति के उक्त आदेश के विरुद्ध माननीय उच्च न्यायालय, इलाहाबाद में रिट याचिका संख्या-8003/2005 के माध्यम से डा. रविशंकर पाण्डेय द्वारा एक याचिका योजित की गयी।
4. माननीय उच्च न्यायालय ने उक्त याचिका में दिनांक 16.12.2005 में आदेश पारित करते हुए निर्देश दिया कि-

In view of this discussion, we find that the appointment of the respondent no.6 is illegal and contrary to Section 31(8)(a) of the Act and as such the appointment of the respondent no.6 is quashed. The matter is referred back to the Executive Council to take an appropriate decision in the matter in accordance with law. It is made clear that the question of respective qualifications of the petitioner and the respondent no.6 has not been adjudicated upon by us on merit. The authorities concerned may examine the same if it is permissible under law without being influenced by any of the observations made by this Court.

In the result the writ petition succeeds and is hereby allowed. The appointment of the respondent no.6 is hereby quashed. But the relief claimed in the petition that a writ, order or direction in the nature of Mandamus commanding the respondent authorities to appoint the petitioner as lecturer in the Department of Sanskrit Vidya of the University, cannot be granted by this Court. The Executive Council is the appointing authority and a decision in this regard has to be taken by the Executive Council first.

However no order is passed as to costs.

याचिका सं. 8003/2005 पर माननीय उच्च न्यायालय, इलाहाबाद के आदेश दिनांक 16.12.2005 के अनुपालन में विश्वविद्यालय आदेश सं.सा.1946/2005, दिनांक 26.12.2005 के द्वारा डा. प्रमोदिनी पण्डा, प्राध्यापक, संस्कृत विद्या विभाग की सेवा तत्काल प्रभाव से समाप्त कर दी गयी।

5. याचिका सं. 8003/2005 पर माननीय उच्च न्यायालय, इलाहाबाद में पारित आदेश दिनांक 16.12.2005 के परिप्रेक्ष्य में डा. प्रमोदिनी पण्डा द्वारा माननीय उच्चतम न्यायालय में एक एस.एल.पी. दाखिल की गयी।
6. डा. प्रमोदिनी पण्डा द्वारा माननीय उच्चतम न्यायालय में योजित एस.एल.पी.सी.नं. 6983/2006 में माननीय उच्चतम न्यायालय ने अधोलिखित आदेश प्रदान किये-

**“The High Court by reason of the impugned judgement has referred the matter to the Executive Council of the University for consideration of the matter afresh. Having regard to the facts and circumstances of the this case, we are of the opinion that it is not necessary to interfere with the impugned judgement at this stage. We would request the Executive Council to take a decision in the matter as expeditiously as possible.**

**The special leave petition is dismissed.”**

- 8- माननीय उच्चतम न्यायालय के उपर्युक्त आदेश के परिप्रेक्ष्य में सम्बन्धित प्रकरण पर विश्वविद्यालय कार्यपरिषद् ने अपनी बैठक दिनांक 29.06.2006 में विचार करते हुए निर्णय लिया कि-

“ 12 जनवरी, 2005 को सम्पन्न चयन समिति की वरीयता क्रम एक पर स्थित डा. रविशंकर पाण्डेय की प्राध्यापक, संस्कृत विद्या के पद पर नियुक्ति न की जाय तथा द्वितीय वरीयता क्रम पर स्थित डा. प्रमोदिनी पण्डा की प्राध्यापक-संस्कृत विद्या के पद पर नियुक्ति की जाये” तथा माननीय सदस्यों को द्वारा दिये गये कारणों मन्तव्य सहित निर्णय को महामहिम कुलाधिपति महोदय को संदर्भित कर उनकी स्वीकृति प्राप्त की जाय तत्पश्चात् कार्यपरिषद् के उक्त निर्णय को क्रियान्वित किया जाय।”

कार्यपरिषद् के उपर्युक्त निर्णय के परिप्रेक्ष्य में विश्वविद्यालय पत्र सं.सा.4425/2006, दिनांक 27.08.2006 के द्वारा महामहिम कुलाधिपति महोदय को पत्र प्रेषित करते हुए कार्यपरिषद् के निर्णय से अवगत कराया गया।

9- विश्वविद्यालय कार्यपरिषद् के निर्णय के अनुपालन में विश्वविद्यालय द्वारा मा.कुलाधिपति महोदय को प्रेषित पत्र के परिप्रेक्ष्य में आदेश सं.ई.1042/जी.एस., दिनांक 23 फरवरी, 2007 द्वारा महामहिम कुलाधिपति महोदय का अधोलिखित आदेश प्रदान हुआ।

संख्या-ई- 1042 / जी०एस०

दिनांक: फरवरी 23, 2007

कुलसचिव, सम्पूर्णानन्द संस्कृत विश्वविद्यालय, वाराणसी द्वारा विश्वविद्यालय के संस्कृत विद्या विभाग में प्राध्यापक के पद पर की जाने वाली नियुक्ति के प्रकरण को कुलाधिपति के निर्णयार्थ संदर्भित किया गया है। प्रकरण के तथ्यों से यह परिलक्षित होता है कि प्राध्यापक, संस्कृत विद्या विभाग के पद पर पूर्व में विश्वविद्यालय की कार्य-परिषद द्वारा डा०(श्रीमती) प्रमोदिनी पण्डा को नियुक्त किया गया था जिसके विरुद्ध डा० रविशंकर पाण्डेय द्वारा माननीय उच्च न्यायालय में याचिका दायर की गई। इस सम्बन्ध में माननीय उच्च न्यायालय द्वारा यह अवधारित किया गया कि यह प्रकरण उत्तर प्रदेश राज्य विश्वविद्यालय अधिनियम, 1973 की धारा-39(क) से आच्छादित है, अतः माननीय उच्च न्यायालय द्वारा उक्त नियुक्ति को निरस्त करते हुए प्रकरण को पुनः कार्य-परिषद को वापस कर दिया गया। विश्वविद्यालय की कार्य-परिषद द्वारा पुनः निर्णय लेने से पूर्व यह प्रकरण डा० (श्रीमती) प्रमोदिनी पण्डा द्वारा माननीय सर्वोच्च न्यायालय में विशेष अनुज्ञा याचिका में ले जाया गया तथा माननीय सर्वोच्च न्यायालय द्वारा भी माननीय उच्च न्यायालय के निर्णय में कोई हस्तक्षेप किये बिना इस संदर्भ में कार्य-परिषद द्वारा पुनः निर्णय लिए जाने की अवधारणा व्यक्त की गई। तदनुसार कार्य-परिषद द्वारा पुनः प्रकरण पर सम्बन्धित विचारोपरान्त प्रस्ताव पारित किया गया जिसके अनुसार कार्य-परिषद के विभिन्न सदस्यों द्वारा डा०(श्रीमती) प्रमोदिनी पण्डा के पक्ष में अपना मत दिया गया तथा कतिपय सदस्यों द्वारा डा० रविशंकर पाण्डेय के पक्ष में अपना मत दिया गया। चयन समिति द्वारा डा० रविशंकर पाण्डेय को प्रथम अधिमानकम पर संस्तुत किया गया तथा डा०(श्रीमती) प्रमोदिनी पण्डा को द्वितीय अधिमानकम पर संस्तुत किया गया। वर्णित स्थिति में यह स्पष्ट है कि कार्य-परिषद द्वारा चयन समिति की संस्तुति से भिन्न मत व्यक्त करते हुए द्वितीय अधिमान कम पर संस्तुत अभ्यर्थी को नियुक्ति हेतु उपयुक्त णय गया।

कार्य-परिषद द्वारा प्रस्तुत प्रकरण के सम्बन्ध में विस्तृत प्रस्ताव पारित किया गया है जो कि निम्नवत् है :-

“ याचिका संख्या-6663/2006, डा० (श्रीमती) प्रमोदिनी पण्डा बनाम डा० रविशंकर पाण्डेय में माननीय उच्चतम न्यायालय द्वारा दिनांक 26-08-2006 को दिये गये

आदेश के सम्बन्ध में विचार कुलसचिव द्वारा परिषद् के समक्ष माननीय उच्चतम न्यायालय का याचिका संख्या-6663/2006 पर दिनांक 26-08-2006 को दिये गये अधोलिखित आदेश प्रस्तुत किया गया—

“The High Court by reason of the impugned judgement has referred the matter to the Executive Council of the University for consideration of the matter afresh. Having regard to the facts and circumstances of the this case, we are of the opinion that it is not necessary to interfere with the impugned judgement at this stage. We would request the Executive Council to take a decision in the matter as expeditiously as possible.

The special leave petition is dismissed.”

परिषद् के माननीय सदस्यों ने माननीय उच्चतम न्यायालय के उक्त आदेश के परिप्रेक्ष्य में माननीय उच्च न्यायालय, इलाहाबाद द्वारा याचिका संख्या-2003/2005 डा० रविशंकर पाण्डेय बनाम स्टेट आफ यू० पी० एवं अन्य पर दिनांक 16-12-2005 में दिये गये आदेश के अनुपालन में विस्तृत एवं गहन विचार-विमर्श किया। परिषद् के अधोलिखित सदस्यों ने प्रथम वरीयता पर स्थित डा० रविशंकर पाण्डेय की नियुक्ति न करने तथा द्वितीय वरीयता प्राप्त डा० प्रमोदिनी पण्डा की नियुक्ति करने हेतु कारणों सहित अपने मतव्य प्रस्तुत किये।

१-सुधाकर मिश्र -

मैं श्रीमती डा० प्रमोदिनी पण्डा के नियुक्त्यर्थ अनुमोदन करता हूँ। इसके निम्न कारण मुझे उचित प्रतीत हो रहे हैं -

१- योग्यता की दृष्टि से श्रीमती प्रमोदिनी पण्डा सबसे योग्य है।

(a) इनका बी० ए० में अंग्रेजी विषय है और इस पद पर नियुक्ति के लिये अंग्रेजी का ज्ञान अत्यंत आवश्यक है यतः इस विभाग में विदेशी छात्र छात्राएं विशेष रूप से अध्ययन करते हैं।

२- चयन समिति द्वारा सर्वाधिक अंक 83 (तैतालिस) इन्हें प्राप्त हैं।

३- चयन समिति में महामहिम कुलाधिपति महोदय के द्वारा नामित दो विषय विशेषज्ञों द्वारा भी डा० प्रमोदिनी पण्डा को सर्वाधिक अंक 96(सोलह) प्रदान किए गये हैं।

२- श्री योगेन्द्र नारायण पाण्डेय-

उपरोक्त प्रकरण में न्यायालय का निर्णय दिनांक १६-१२-२००५ के संदर्भ में योग्यता कम के अनुसार विशेषज्ञों द्वारा चयनित प्रमोदिनी पण्डा अर्ह हैं, रविशंकर पाण्डेय के पक्ष में उच्चतम न्यायालय ने एवं प्रमोदिनी पण्डा के पक्ष में उक्त न्यायालय ने कार्य परिषद के निर्णय को ही निर्धारित किया है। अतः प्रमोदिनी पण्डा को वरीयता कम के आधार पर सहमति की जाती है। अतः प्रमोदिनी पण्डा संस्कृत विद्या पद की अधिकारिणी हैं।

### ३- प्रो० श्रीकान्त पाण्डेय-

उक्त प्रकरण में माननीय उच्च न्यायालय के निर्णय दिनांक १६-१२-२००५ का अध्ययन करने के बाद मैंने चयन समिति के प्रत्यावेदन का परीक्षण किया एवं पाया कि अध्यक्ष एवं सदस्यगण के अंकों को मिलाकर डा० प्रमोदिनी पण्डा अधिमान कम में प्रथम स्थान पर आती हैं। साथ ही केवल बाह्य विषय विशेषज्ञों (कुलपति एवं विभागाध्यक्ष को छोड़कर) के अंको को मिलाकर देखने पर भी श्रीमती प्रमोदिनी पण्डा ही प्रथम स्थान पर आती है अतः दोनों दृष्टिकोण से संस्कृत विद्या के प्राध्यापक पर पर नियुक्ति हेतु डा० प्रमोदिनी पण्डा के नाम से मैं सर्वथा सहमत हूँ।

### ४- प्रो० नरेन्द्र पाण्डेय -

प्रमोदिनी पण्डा एवं रविशंकर पाण्डेय की नियुक्ति संबंधी प्रपत्रों का अवलोकन किया। अधिमान कम जो चयन समिति ने निर्धारित किया उसमें चयन समिति में ही विवाद हो गया। माननीय अध्यक्ष (विभागाध्यक्ष) ने विमति लिखा, माननीय कुलपति ने भी टिप्पणी दी। अतः अधिमान विवादित हुआ। एक से माननीय कुलपति असहमत थे, माननीय विभागाध्यक्ष द्वितीय से असहमत थे। ऐसी स्थिति में यदि अध्यक्ष एवं कुलपति महोदय के अंकों को निकाल दिया जाये तो विषय विशेषज्ञों की अंक तालिका से प्रमोदिनी पण्डा ही प्रथम अधिमान पर आती है। विभागाध्यक्ष पहले से प्रमोदिनी पण्डा के प्रति दुराग्रह (न करने का) नहीं रखते, यह कहा नहीं जा सकता क्योंकि उन्होंने माननीय कोर्ट में स्वयं पक्ष के रूप में उपस्थित होकर डा० रविशंकर पाण्डेय के पक्ष को पुष्ट करने का प्रयास किया। माननीय कुलपति ने अंक चयन समिति में दिया था। बन्द लिफाफे को कार्यपरिषद में खोला गया।

उपर्युक्त कारणों के परिप्रेक्ष्य में न्याय की दृष्टि से तथा विदेशी छात्रों को पढ़ाने की अंग्रेजी भाषा की क्षमता एवं संस्कृत ज्ञान के कारण प्रमोदिनी पण्डा की नियुक्ति से सहमत।

### ५- सुश्री विनीता सिंह -

महामहिम कुलाधिपति महोदय द्वारा चयन समिति में नियुक्त दो विषय विशेषज्ञों के अनुसार डा० प्रमोदिनी पण्डा ही उक्त पद के लिए सर्वश्रेष्ठ अभ्यर्थी हैं जिसकी पुष्टि उनके द्वारा डा० प्रमोदिनी पण्डा को दिये गये अधिमानों के योग से होती है। अतएव मैं उक्त पद हेतु महामहिम कुलाधिपति महोदय द्वारा नियुक्त दोनों विषय विशेषज्ञों की राय से सहमत होते हुए डा० प्रमोदिनी पण्डा की नियुक्ति का समर्थन करती हूँ।

परिषद के एक सदस्य श्री कैलाश चन्द्र मिश्र ने निम्नलिखित कारणों के साथ इस पद को पुनर्विज्ञापन के लिए अपना मन्तव्य प्रस्तुत किया जो अधोलिखित रूप में है --

“ चयन समिति की बैठक दिनांक १२ फरवरी, २००५ में चयन समिति के दो सदस्यों (कुलपति एवं विभागाध्यक्ष) के बीच मतभेद होने के कारण चयन समिति की संस्तुति को न माना जाय तथा प्राध्यापक - संस्कृत विद्या के पद को पुनर्विज्ञापित किया जाय”।

परिषद के अधोलिखित दो सदस्यों ने उक्त प्रकरण पर कुलाधिपति महोदय को विचारार्थ एवं निर्णयार्थ प्रेषित करने का अधोलिखित मन्तव्य किया --

१- प्रो० कृष्णचन्द्र दूबे

२- डा० सूर्यकान्त

प्रकरण विवादित है। न्यायालय के निर्णय के उपरान्त सदस्यों के अभिमत की प्रसंगिकता नहीं प्रतीत होती है। अतः मेरा निजी मत है कि उक्त प्रकरण को समस्त सम्मिलित मूल प्रपत्रों के साथ कुलाधिपति महोदय को विचारार्थ एवं निर्णयार्थ प्रेषित किया जाय।

उक्त प्रकरण पर परिषद के एक सदस्य डा० राजीव रंजन सिंह ने डा० रविशंकर पाण्डेय की नियुक्ति का अभिमत प्रस्तुत करते हुए अधोलिखित मन्तव्य प्रस्तुत किया :-

मैं अकेले और व्यक्तिगत रूप से इस पक्ष से सहमत हूँ कि “दिनांक १२ जनवरी २००५ को सम्पन्न चयन समिति की संस्तुति के आधार पर वरीयता कम एक पर स्थित श्री रविशंकर पाण्डेय की प्राध्यापक, संस्कृत विद्या के पद पर नियुक्ति की जाये।” तथा कार्यपरिषद के अधिकांश सदस्यों द्वारा दिये गये मत को अधिनियम/परिनियम तथा माननीय न्यायालयों के निर्णय के विरुद्ध और उसके क्रियान्वयन में बाधक मानते हुए कार्य-परिषद के बहुमत के निर्णय से अपने को अलग करता हूँ तथा अलग से विमति-पत्र देता हूँ।

ह० डा० राजीव रंजन सिंह

विमति पत्र

दिनांक २६.०६.२००६

माननीय अध्यक्ष महोदय,

कार्यपरिषद  
सम्पूर्णानन्द संस्कृत विश्वविद्यालय,  
वाराणसी।

विषय:—दिनांक २६-०६-२००६ की कार्य-परिषद की बैठक में बिन्दु ३ पर बहुमत के आधार पर लिए गये निर्णय से असहमति रखते हुए उस निर्णय से अपने को अलग करने हेतु।

महोदय,

माननीय उच्च न्यायालय, इलाहाबाद ने बाद सं० ८००३ वर्ष २००५ में यह निर्णय दिया कि डा० (श्रीमती) प्रमोदिनी पण्डा की संस्कृत विद्या विभाग में प्राध्यापिका पद पर नियुक्ति समाप्त की जाये तथा अधिमान कम को मान्य करते हुए कार्य-परिषद को अधिनियम/परिनियम की सीमा में नये सिरे से विचार करने का निर्देश दिया। वादी द्वारा इसके विरुद्ध सर्वोच्च न्यायालय में याचिका (S.L.P.) उपस्थित की गई जिसे अमान्य करते हुए न्यायालय ने अतिशीघ्र और नये सिरे से विचार करने का निर्देश स्पेशल लीव पेटिशन (सिविल) न० ६६८३ वर्ष २००६ में दिया।

कार्यपरिषद में बहुमत से फिर से चयन समिति और कार्यसमिति (जनवरी २००५) की बैठकों में अनियमितता का उल्लेख करते हुए अधिमान कम में कम संख्या दो पर उल्लिखित डा (श्रीमती) प्रमोदिनी पण्डा को नियुक्त करने के प्रस्ताव का समर्थन किया गया है।

अतः कार्यपरिषद सदस्यों के बहुमत के इस निर्णय को अधिनियम/परिनियम की व्यवस्था तथा माननीय न्यायालयों के निर्णय की अवहेलना मानते हुए उससे विमति प्रदर्शित करता हूँ और उससे अपने को अलग करता हूँ।

इस प्रकार बैठक में उपस्थित अध्यक्ष को छोड़कर नौ सदस्यों में से द्वितीय वरीयता प्राप्त डा० प्रमोदिनी पण्डा की नियुक्ति के पक्ष में -०५ पुनर्विज्ञापन के पक्ष में -०१, कुलाधिपति के विचारार्थ एवं निर्णयार्थ प्रेषित करने के पक्ष में -०२ तथा प्रथम वरीयता प्राप्त डा० रविशंकर पाण्डेय की नियुक्ति के पक्ष में -०१ सदस्यों में मत व्यक्त किये।

इस प्रकार कार्यपरिषद में बहुमत का निर्णय अधोलिखित है:-

“ १२ जनवरी, २००५ को सम्पन्न चयन समिति की वरीयता कम एक पर स्थित डा० रविशंकर पाण्डेय की प्राध्यापक, संस्कृत विद्या के पद पर नियुक्ति न की जाये तथा द्वितीय वरीयता कम पर स्थित डा० प्रमोदिनी पण्डा की प्राध्यापक संस्कृत-विद्या के पद

पर नियुक्ति की जाये” तथा माननीय सदस्यों के द्वारा दिये गये कारणों/मन्तव्य सहित निर्णय को महामहिम कुलाधिपति महोदय को संदर्भित कर उनकी स्वीकृति प्राप्त की जाये तत्पश्चात् कार्य-परिषद के उक्त निर्णय को कियान्वित किया जाये।”

कार्य-परिषद् के निर्णय से यह स्पष्ट है कि कार्य-परिषद् द्वारा डा० प्रमोदिनी पण्डा को प्रश्नगत पद पर नियुक्ति हेतु बहुमत से संस्तुत किया गया है। कार्य-परिषद् की बैठक दिनांक २६-६-२००६ जिसमें कि उक्त प्रकरण विचारार्थ प्रस्तुत हुआ था में उपस्थित सदस्यों में से ०५ सदस्यों द्वारा डा०(श्रीमती) प्रमोदिनी पण्डा की नियुक्ति के पक्ष में अभिमत प्रदर्शित किया गया है जबकि डा० रविशंकर पाण्डेय के पक्ष में मात्र एक सदस्य द्वारा संस्तुति प्रदत्त की गई है। जिन सदस्यों द्वारा डा०(श्रीमती) प्रमोदिनी पण्डा के पक्ष में अभिमत प्रस्तुत किया गया है उन्होंने मुख्य रूप से डा०(श्रीमती) प्रमोदिनी पण्डा की अर्हताओं, योग्यताओं एवं विषय विशेषज्ञों द्वारा डा०(श्रीमती) प्रमोदिनी पण्डा को दिये गये अंकों के आधार पर अपना निर्णय दिया गया है। चूंकि कार्य-परिषद् के अधिकांश सदस्यों द्वारा चयन समिति द्वारा द्वितीय अधिमानकम पर संस्तुत डा०(श्रीमती) प्रमोदिनी पण्डा के पक्ष में मत प्रदर्शित किया गया है, अतः प्रकरण उत्तर प्रदेश राज्य विश्वविद्यालय अधिनियम, १९७३ की धारा-३१(८)(क) के अन्तर्गत कुलाधिपति के निर्णयार्थ संदर्भित किया गया है। प्रकरण के इन तथ्यों के परिप्रेक्ष्य में यह आवश्यक प्रतीत होता है कि डा० रविशंकर पाण्डेय एवं डा०(श्रीमती) प्रमोदिनी पण्डा के शैक्षणिक अभिलेखों का तुलनात्मक परीक्षण किया जाये।

विश्वविद्यालय द्वारा प्रेषित किये गये अभिलेखों के अनुसार डा० (श्रीमती)प्रमोदिनी पण्डा के शैक्षणिक अभिलेख निम्नवत् हैं :-

क्रमांक	परीक्षा	वर्ष	संस्था का नाम	विषय	प्रतिशत	श्रेणी
१-	हाई स्कूल	१९८०	माध्यमिक शिक्षा बोर्ड, ओडिशा	ओडिया, संस्कृत, अंग्रेजी, समाज विज्ञानादि	६७.४	प्रथम
२-	इण्टर	१९८२	उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिसा	ओडिआ, संस्कृत, अंग्रेजी, राजनीति, इतिहास, तर्क शास्त्र	५६.३	द्वितीय
३-	स्नातक	१९८४	उत्कल विश्वविद्यालय,	ओडिया, अंग्रेजी, राजनीति,	६१.५	प्रथम

			भुवनेश्वर, ओडिसा	संस्कृत(सम्मान)		
४-	स्नातकोत्तर	१९८६	उत्कल विश्वविद्यालय, भुवनेश्वर, ओडिसा	संस्कृत	६२.५	प्रथम
५-	आचार्य	१९९९	कामेश्वर सिंह दरभंगा संस्कृत विश्वविद्यालय, दरभंगा	वेद(वेदिक व्याकरण विषय के साथ)	७८.५	प्रथम
६-	अनुसंधान / विद्यावारिधि / पी०एच०डी	१९९२	राष्ट्रीय संस्कृत संस्थान, नई दिल्ली।	ऋग्वेद-प्रथम मण्डलस्य सायणवैकटमाध- माध्ययोःतुलनात्मक- अध्ययनम्		
७-	कार्यकाण्ड (डिप्लोमा)	२००१	काशी विद्यापीठ, वाराणसी	कर्म एवं पौरहित्य	६६	प्रथम
८-	कोविद	१९८४	राष्ट्रभाषा प्रचार समिति, वर्धा	हिन्दी	६०	प्रथम

२- नेट / जे०आर०एफ०

३- छात्रवृत्ति

४- कार्यानुभव

५- अध्यापन अनुभव (१) रिसर्च एसोसियेट (८०००.००) (पाँच वर्ष)(१९९४-९८) श्री लाल बहादुर शास्त्री

— राष्ट्रीय छात्रवृत्ति।

(२) राष्ट्रीय संस्कृत विद्यापीठ, नई दिल्ली।

(३) केन्द्रीय उच्च तिब्बति संस्थान, सारनाथ, वाराणसी (१९९९-२०००) ५०००.००

(४) सुधाकर महिला महाविद्यालय, वाराणसी (२०००-०१)

(५) सम्पूर्णानन्द संस्कृत विश्वविद्यालय, संस्कृत विद्या विभाग, वाराणसी (२००१-०२) वेतन-२५००-००

(६) सम्पूर्णानन्द संस्कृत विश्वविद्यालय, शिक्षा शास्त्र विभाग (२००२-२००३) वेतन-२५००-००

(७) राष्ट्रीय संस्कृत संस्थान प्रशिक्षण केन्द्र, सम्पूर्णानन्द संस्कृत, वाराणसी (२००४ से अद्यावधि वेतन-५०००-००

#### ६- प्रकाशन विवरण (पुस्तकें)

(१) ऋग्वेद प्रथममण्डलस्य सायणवैकटमाधवभाष्ययोः तुलनात्मकअध्ययनम् ।

(२) वेदकालीन नारीशिक्षा ।

(३) संस्कृतवाङ्मयवल्ली ।

#### विशेष टिप्पणी।

१- व्याकरण शास्त्र का अध्ययन स्नातकोत्तर कक्षा तक किया है।

२- विशिष्ट गुरुओं से व्याकरण का अध्ययन किया है।

#### डा० रविशंकर पाण्डेय के शैक्षिक विवरण।

१-

क्र० सं०	परीक्षा का नाम	परीक्षा संस्था	उत्तीर्ण वर्ष	श्रेणी	प्रतिशत
१-	पूर्व मध्यमा / हाई स्कूल	सं०सं०वि०वि०, वाराणसी	१९६१	द्वितीय	५८.४०
२-	उत्तरमध्यमा / इण्टर	—तदैव—	१९६३	प्रथम	७६.००
३-	शास्त्री / बी०ए०	—तदैव—	१९६६	प्रथम	६२.४०
४-	आचार्य (नव्य व्याकरण)	—तदैव—	१९६८	प्रथम	७६.१०
५-	एम०फिल०	—तदैव—	—	—	—
६-	विद्यावारिधि / पी०एच०डी०	—तदैव—	२००३	—	—

#### रिफ़ेसर् कोर्स

अ- राष्ट्रीय पात्रता परीक्षा विश्वविद्यालय अनुदान आयोग वर्ष १९६८ (नेट / जे०आर०एफ०)

ब- १९६३ ई० पू० प्रस्तुत शोध प्रबन्ध।

स- १९६३ ई०पूर्व प्राप्त शोधोपाधि :

२- शोधप्रबन्धस्य (पी०एच०डी०) विषय :- पस्पशाहिनकस्थप्रदीपोधोतयोः दर्शनिक दृष्टव्या समीक्षणम् ।

३- कार्यानुभव :-

क्रमांक	पदनाम	अवधि	वेतन / मूलवेतन	संस्था का नाम
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१-	यू०जी०सी० जे०आर०एफ०	१९६८- २००३ सत्रों में	यू०जी०सी० प्रदत्त छात्रवृत्ति	व्याकरण विभाग, सम्पूर्णानन्द संस्कृत विश्वविद्यालय, वाराणसी।
२-	मानदेय संविदा के रूप में	२००३- २००४ तक एक सत्र	२५००/-प्रति माह मानदेय संविदा	संस्कृत विद्या विभाग, सम्पूर्णानन्द संस्कृत विश्वविद्यालय, वाराणसी।
३-				

४- शोध निर्देशानुभवः (प्राप्तोपाधिच्छात्राणां संख्या)-

५- उपाध्युत्तरशोधकार्यविवरणम् --भारतीयदार्शनिक अनुसंधान परिषद् द्वारा  
स्वीकृत वैयाकरणभूषणसारस्य।

६- प्रकाशन विवरणम्

क्रमांक	ग्रन्थ नाम	प्रकाशक	प्रकाशनवर्षम्
१-	शोधग्रन्थः		
२-	मौलिकग्रन्थः		
३-	सम्पादनम्		
४-	अनुवादः		
५-	टीका		

७- प्रकाशिताः शोधलेखा अन्ये लेखाश्च (संख्यामात्रोउल्लेखः कार्य ३

लेखप्रतयो ग्रन्थादिकच्च साक्षात्कारसमय सहैवानेतत्स्यम् -

डा०(श्रीमती) प्रमोदिनी पण्डा एवं डा० रविशंकर पाण्डेय के शैक्षणिक

अभिलेखों/योग्यताओं के तुलनात्मक अध्ययन से यह स्पष्ट है कि डा०(श्रीमती) प्रमोदिनी पण्डा की तीन प्रकाशित पुस्तकें हैं जबकि डा० रविशंकर पाण्डेय द्वारा रचित पुस्तकों का कोई उल्लेख नहीं है। वर्णित स्थिति में शैक्षणिक योग्यताओं एवं अभिलेखों तथा प्रकाशन के आधार पर डा०(श्रीमती) प्रमोदिनी पण्डा डा० रविशंकर पाण्डेय से श्रेष्ठतर अभ्यर्थी हैं।

प्रस्तुत प्रकरण के सम्बन्ध में कार्य-परिषद् द्वारा दिनांक २१-१-२००६ को पारित निर्णय भी उल्लेखनीय है। कार्य-परिषद् के इस निर्णय के सुसंगत अंश निम्नवत् हैं :-

“विचार-विमर्श के अनन्तर प्राध्यापक, संस्कृत विद्या विभाग के पद पर चयन-समिति की संस्तुति तथा अध्यक्ष जी द्वारा दिया गया अंक, जो बन्द लिफाफे में था, खोला गया। चयन समिति एवं सभी सदस्यों द्वारा प्रदत्त अंकों को जोड़कर बहुमत से यह निर्णय लिया गया कि वास्तव में अंकों के आधार पर अधिमान क्रम के प्रथम स्थान पर डा० प्रमोदिनी पण्डा ही आती है। अतः डा० पण्डा को प्राध्यापक संस्कृत विद्या के उक्त पद पर रु० ८०००-१३५०० के वेतनमान पर नियुक्त किया जाय। दिये गये अंकों को निम्नवत् अंकित कर दी गयी जिसके आधार से अधिमान निकाला गया।

	Chairman	Members	
1. Ravi Shankar	= 8	+ 34 = 42	
2. Pramodini Panda	= 14	+ 29 = 43	
3. Rama Kant Pandey	= 11	+ 28 = 39	
4. Kamlesh Mani Tripathi	= 12	+ 28 = 40	
क्र०सं०	नाम	कुल अंक	अधिमानक्रम
1.	Pramodini Panda	43	1
2.	Ravi Shankar Pandey	42	2
3.	Kamlesh Mani	40	3
4.	Rama Kant Pandey	39	

(डा० राजेन्द्र मिश्र) (प्रो० नरेन्द्र नाथ पाण्डेय) (प्रो० रामपूजन पाण्डेय) (डा० के० सी० मिश्र)  
अध्यक्ष, कार्यपरिषद् सदस्य, कार्यपरिषद् सदस्य, कार्यपरिषद् सदस्य, कार्यपरिषद्

(डा० सूर्यकान्त) (डा० विसम्भर नाथ) (डा० गोरेलाल मिश्र) (डा० लालजी मिश्र)  
सदस्य, कार्यपरिषद् सदस्य, कार्यपरिषद् सदस्य, कार्यपरिषद् सदस्य, कार्यपरिषद्

उक्त निर्णय के समय प्रो० गंगाधर पण्डा, कुलसचिव बैठक कक्ष से बाहर चले गये एवं उक्त पद के निर्णय के समय श्री इन्दुपति झा ने सचिव के दायित्वों का निर्वहन किया। एक सदस्य प्रो० सुभाष चन्द्र तिवारी ने अपनी विमति अंकित करायी।

प्राध्यापक चयन समिति (संस्कृत विद्या विभाग) के पांच सदस्य डा० रविशंकर पाण्डेय की प्रथम अधिमान की संस्तुति से दोनों विशेषज्ञ एवं विभागाध्यक्ष सहमत हैं। कार्य परिषद् को कोई परिनिियम गत अधिकार नहीं है कि वह चयन समिति के निर्णय में परिवर्तन करे।

अतः चयन समिति के निर्णय में किसी संशोधन से असहमत।

(प्रो० सुभाष चन्द्र तिवारी)  
सदस्य

चयन समिति एवं कार्यपरिषद् के अध्यक्ष प्रो० राजेन्द्र मिश्र जी ने सदस्य प्रो० सुभाष चन्द्र त्रिपाठी जी के विमति को निराधार बताते हुये यह स्पष्ट किया है कि -

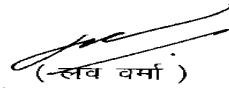
- १- चयन समिति के सदस्यगण एवं अध्यक्ष जी को मिला कर अंक देने वाले पांच व्यक्ति हैं जिनके निर्णय के अनुसार प्रमोदिनी पण्डा अधिमानकम में प्रथम रहीं।
- २- जब चयन समिति के अध्यक्ष अपने हस्ताक्षर के नीचे टिप्पणी में यह स्पष्ट किया कि मैं अपना अंक देने का अधिकार सुरक्षित रखता हूँ, जिसे कार्यकारिणी में प्रस्तुत करूँगा, संशोधित अधिमान ही मान्य होगा; अतः यह स्पष्ट है कि चयन समिति की संस्तुति में अधिमानकम अध्यक्ष की टिप्पणी के बाद नहीं रह गया। अतः कार्य-परिषद् इस प्रकरण में चयन समिति के सभी सदस्यों के इन प्रदत्त अंकों पर विचार कर डा० प्रमोदिनी पण्डा को अधिमानकम में प्रथम पाया और उनकी नियुक्ति की।”

चयन समिति द्वारा प्रश्नगत पद हेतु की गई संस्तुति एवं कार्य-परिषद् के निर्णय से यह स्पष्ट है कि डा० (श्रीमती) प्रमोदिनी पण्डा के पक्ष में चयन समिति के सदस्यों द्वारा दिये गये अंकों का गोग अधिक है तथा इस बात पर भी डा० (श्रीमती) प्रमोदिनी पण्डा ही नियुक्ति की पात्र है। यद्यपि चयन समिति की संस्तुति में डा० रविशंकर पाण्डेय को प्रथम अधिमानकम में संस्तुत किया गया था परन्तु चयन समिति के अध्यक्ष द्वारा चयन समिति की संस्तुति में संवीक्षा की गई थी कि वह अपने अंक देने के अधिकार को सुरक्षित रखते हैं जिसे कार्य-परिषद् के समक्ष प्रस्तुत करेंगे। कार्यकारिणी की बैठक में अध्यक्ष द्वारा डा० (श्रीमती) प्रमोदिनी पण्डा को १४ अंक प्रदान किये गये जबकि डा० रविशंकर पाण्डेय को अध्यक्ष के स्तर से ८ अंक प्रदान किये गये। वर्णित स्थिति में चयन समिति की संस्तुति में अंकित किये गये निश्चित अधिमानकम में भी तकनीकी रूप से संशोधन अथवा परिवर्तन परिलक्षित होता है। तथ्यों के इस परिप्रेक्ष्य में कुलाधिपति के स्तर से ही प्रकरण में अन्तिम निर्णय लिया जाना अपेक्षित है तथा माननीय उच्च न्यायालय तथा माननीय सर्वोच्च न्यायालय द्वारा पारित निर्णय में निहित मंतव्यों के अनुसार भी गुणावगुण के आधार पर प्रकरण में निर्णय लिया जाना वाँछित है।

डा० (श्रीमती) प्रमोदिनी पण्डा एवं डा० रविशंकर पाण्डेय के शैक्षणिक अभिलेखों एवं प्रकाशन की तुलना के आधार पर तथा चयन समिति के सदस्यों तथा चयन समिति के अध्यक्ष द्वारा उक्त दोनों अभ्यर्थियों के प्रदान किये गये अंकों के आधार पर डा० (श्रीमती) प्रमोदिनी पण्डा को प्राध्यापक, संस्कृत विद्या के पद पर नियुक्त किया जाना उपयुक्त प्रतीत होता है।

५/—  
( टी० वी० राजेस्वर )  
कुलाधिपति

✓ प्रतिलिपि कुलपति, सम्पूर्णानन्द संस्कृत विश्वविद्यालय को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

  
(-सर्व वर्मा)  
कुलाधिपति के प्रमुख सचिव

- 10- मा. कुलाधिपति महोदय के आदेश सं.ई.-1042/जी.एस., दिनांक 23 फरवरी, 2007 द्वारा प्राप्त स्वीकृति के परिप्रेक्ष्य में विश्वविद्यालय आदेश सं.सा.249/2007, दिनांक 21.04.2007 द्वारा डा.प्रमोदिनी पण्डा की प्राध्यापक- संस्कृत विद्या पद पर पुनः नियुक्ति की गयी।
- 11- मा. कुलाधिपति के आदेश सं.ई.1042/जी.एस., दिनांक 23 फरवरी, 2007 के विरुद्ध डा. रविशंकर पाण्डेय ने माननीय उच्च न्यायालय, इलाहाबाद में एक रिट याचिका संख्या-22953/2007, डा. रविशंकर पाण्डेय बनाम उत्तर प्रदेश राज्य एवं अन्य योजित किये।
- 12- मा. उच्च न्यायालय, इलाहाबाद द्वारा याचिका संख्या-22953/2007, डा. रविशंकर पाण्डेय बनाम उत्तर प्रदेश राज्य एवं अन्य में माननीय उच्च न्यायालय के द्वारा दिनांक 24.02.2012 को अधोलिखित आदेश पारित किया -



Reserved

Case :WRIT A No. 22953 of 2007

Petitioner :Dr. Ravi Shankar Pandey

Respondent :State Of U.P. And Others

Petitioner Counsel :G.K. Singh, V.K. Singh

Respondent Counsel :C. S.C., Anil Tewari, Neeraj Tripathi, S.K. Tyagi, Sanjay Singh, V.B. Mishra, V.D. Vyas

Hon'ble Sheo Kumar Singh,J.

Hon'ble Pankaj Naqvi,J.

(Delivered by Hon'ble Pankaj Naqvi, J.)

Can a Chancellor in exercise of powers conferred under Section 31 (8) (a) of the U.P. State Universities Act, 1973 (hereinafter referred to as the Act) assess the relative merit and suitability of a candidate and recommend an appointment, even though such a person has not been recommended by the selection committee?

1. The aforesaid issue has cropped up in relation to the facts and circumstances, which are enumerated hereunder:

Sampoornanand Sanskrit University (for short the University) issued an advertisement no.12004 dated 6.8.2004 inviting applications for 27 posts of lecturers including a post of lecturer in the Department of Sanskrit Vidya. It was provided therein that in order to be eligible to apply for the aforesaid post a candidate should possess a degree of Acharya or Post Graduate degree in the subject with specialization in Vyakaran. About 50 candidates applied against the aforesaid advertisement. The petitioner has to his credit a degree of Acharya in Vyakaran and has also cleared his National Eligibility Test (NET) held by University Grant Commission (UGC) and is also P.hD holder in Vyakaran. The petitioner also claims to have taught Vyakaran in the Department of University as a part time lecturer for one academic session. Interview took place on 12.1.2005 in which the petitioner along with others also appeared. The petitioner claims that even though Dr. Smt. Pramodini Panda was not eligible, as she did not possess

requisite qualification, as required in the advertisement, as she neither had a degree of Acharya nor a Post Graduate degree in Sanskrit with specialization in Vyakaran, yet she appeared before the Selection Committee. The Selection Committee unanimously recommended the petitioner for appointment to the post in question at serial no.1 and also recommended Dr. Smt. Pramodini Panda – respondent no.6 at serial no.2. The recommendation of the petitioner was unanimous, but in the case of Dr. Smt. Pramodini Panda there was a note of dissent by the Head of Department, as he was of the view that her name should not be recommended, as she did not possess either the degree of Acharya in Vyakaran or a Post Graduate degree in the subject with specialization in Vyakaran and also that she was not able to answer question on Vyakaran. Accordingly, recommendations made by the Selection Committee were placed before the Executive Council of the University in its meeting held on 23.1.2005 and the Executive Council passed a resolution appointing respondent no.6 on the post of lecturer, even though she was at serial no.2 and accordingly, an appointment order was issued in favour of respondent no.6 on 23.1.2005. The petitioner, being aggrieved against the appointment of Dr. Smt. Pramodini Panda – respondent no.6 as lecturer filed Civil Misc. Writ Petition No.8003 of 2005 (Dr. Ravi Shankar Pandey v. State Of U.P. and others). In the said petition a stand was taken by the University that the Vice Chancellor/Chairman of the Selection Committee had given his marks in a sealed cover, which were disclosed for the first time before the Executive Council, and on that basis respondent no.6 was more suitable than the petitioner. Following findings were recorded in the judgment dated 16.12.2005, which are enumerated hereunder:

*(I) A Selection Committee takes a collective decision as a Body which cannot be affected subsequently by any act or an individual member of the Selection Committee. The decision of the Selection Committee placing the petitioner at serial number 1 was its final recommendation notwithstanding the fact that the Vice Chancellor initially without there being any provision reserved his right to disclose the marks awarded by him before the Executive Council.*

*(II) The Executive Council was supposed to make appointment as per position or ranking obtained in the recommendation and it had no power to override the recommendations made by the Selection Committee and to appoint a candidate of its own choice.*

*(III) The Vice Chancellor being Chairman of the Selection Committee was the master to control, manage and supervise the proceedings of the Selection Committee. He took active part in the selection process. There was absolutely no justification for the Vice Chancellor being the Chairman of the Selection Committee in adopting a novel method even after he had some difference of opinion with the Head of Department. The 2 experts were there, who took active part when merit list was drawn. Merit list which was*

*prepared by Prof. K.C. Panda, one of the experts in the presence of all the committee members and had been certified by the Vice Chancellor under his signatures wherein the petitioner had been shown at serial number 1. It was part of the recommendation of the Selection Committee. The reservation made by the Vice Chancellor could by no stretch of imagination be called as part of the recommendation by the Selection Committee.*

*(IV) The Executive Council was, therefore, not authorized to take a different view than the view taken by the Selection Committee. In case it wanted to defer with the recommendations made by the Selection Committee, it should have referred the matter to the Chancellor under Section 31 (8) (a) of the Act.*

*(V) The Vice Chancellor was not right in not disclosing the marks awarded by him before the Selection Committee in the meeting of the Selection Committee and could not do so subsequently after the meeting was over. The Executive Council also acted against law in not honoring the recommendation of the Selection Committee by changing the order of merit on the basis of a subsequent disclosure made by the Vice Chancellor.*

*(VI) The Selection Committee including its Chairman becomes functus officio immediately on completion of the selection process.*

*(VII) The argument made on behalf of the respondent no.6 that the court should be guided only by marks awarded by the two experts lacks merit. It runs counter to the statutory provisions, which contains the constitution of the Selection Committee, therefore, the said argument sans merits and is hereby rejected.*

*(VIII) According to the stand taken by the University in the aforesaid case it was held by the Hon'ble Court that the petitioner as well as the respondent no.6 both possessed the minimum qualification.*

Accordingly, the Court observed that in case the Executive Council wanted to differ with the recommendations made by the selection committee then the only option before it was only to refer the matter to the Chancellor under Section 31 (8) (a) of the Act. Judgment dated 16.12.2005 was assailed by respondent no.6 before the Apex Court and the Apex Court also dismissed her SLP on 28.4.2006.

Pursuant to the order passed by this Court and that of the Apex Court, the matter was again placed before the Executive Council in its meeting held on 29.6.2006 and the Executive Council resolved to differ with the recommendation made by the Selection Committee and, therefore, referred the entire matter to the Chancellor under Section 31 (8) (a) of the Act for his decision. Accordingly, the Chancellor by means of an order dated 23.2.2007 has held that it is respondent no.6, who should be appointed as lecturer in Sanskrit Vidya. The petitioner, being aggrieved against the aforesaid order of Chancellor dated 23.2.2007, has filed present writ petition.

2. A counter affidavit has been filed on behalf of the University wherein, inter alia, it is stated that respondent no.6 has better qualification than the petitioner and in this connection a comparative chart with educational qualifications and experience was also filed as annexure 3 to the counter affidavit to demonstrate that respondent no.6 is more suitable for the post in question than the petitioner. It was further stated that in the Selection Committee there were six members and out of them two members were experts of their subjects, two members represented Backward Caste and Scheduled Caste Community and other two being the Vice Chancellor and the Head of Department. The Selection Committee had decided to allot the marks on the performance of each candidate and the Vice Chancellor had given his marks in a sealed

envelop and that when the recommendations of the Selection Committee were placed before the Executive Council, where all the marks allotted by the members were counted and it was found that respondent no.6 got maximum marks and, therefore, she was recommended for appointment on 23.1.2005.

3. More or less, a similar counter affidavit has also been filed on behalf of respondent no.6 wherein, inter alia, it has been stated that as she was found at serial no.1 in the panel after including the marks of the Vice Chancellor, thus there was no illegality in the decision of the Executive Council and that after inclusion of marks given by the Vice Chancellor respondent no.6 has shifted to serial no.1 and, therefore, it is incorrect to allege on behalf of the petitioner that he was at serial no.1.

4. In the rejoinder affidavit it has been stated that as action of Vice Chancellor in giving marks in a sealed cover and not disclosing the same before the Selection Committee did not find favour by this Court in Civil Misc. Writ Petition No.8003 of 2005 decided on 16.12.2005, therefore, the issue, which was raised as regards the propriety of allocation of marks by the Vice Chancellor in a sealed cover or at a stage subsequent to the recommendation of the Selection Committee having been found de hors the provisions of law, therefore, the same cannot again form the basis for elevating the ranking of respondent no.6 from serial no.2 to serial no.1. It was further stated by the petitioner that the members of the Executive Council or for that matter the Chancellor are not in a position to judge the comparative merit and suitability of the candidates as neither of them possess the requisite expertise nor was a candidate before them and that selection and appointment is not only on the basis of academic qualifications, but the same is also based on their performance in the interview, before the experts constituting the Selection Committee.

5. Heard Shri G.K. Singh, learned counsel for the petitioner, Shri Neeraj Tripathi, learned counsel for the Chancellor, Shri V.B. Mishra, learned counsel for the University and Shri Ashok Khare, learned Senior Counsel assisted by Shri Sanjay Singh for respondent no.6.

6. The submissions of Shri G.K. Singh, learned counsel for the petitioner are as under: A. The principal submission is that the learned Chancellor while passing the impugned order dated 23.2.2007 has taken into consideration the marks allotted by the Vice Chancellor in the capacity of Chairman of the Selection Committee after the selection process was over and as this Court in the earlier litigation interparties had held that the Vice Chancellor being a Chairman of the Selection Committee was not authorized to

do so, therefore, the marks allotted by him at a subsequent stage were meaningless and, therefore, the said marks could not have formed the basis for passing the order dated 23.2.2007 by the Chancellor.

B. Second submission of the learned counsel for the petitioner is that merit and suitability are the twin considerations, which have to be assessed by the Selection Committee comprising of all the experts and, therefore, it was neither open for the Executive Council nor the Chancellor to dwell on the said issue, as they did not possess the requisite expertise to evaluate the same and, therefore, it was not open for either of them to comment upon as to who is more suitable than the other.

C. Third and final submission of the learned counsel for the petitioner is that the Chancellor while exercising power under Section 31 (8) (a) of the Act has a very limited role, who is only to ensure as to whether the candidate possesses the requisite qualifications or not and as to whether the procedure prescribed under the Act or statutes or the Ordinances or the constitutional norms have been complied with or not and that he cannot assess the merit and suitability, as the same is within the exclusive domain of the Selection Committee, comprising of experts.

7. Per contra, submission of Shri Ashok Khare, learned Senior Counsel assisted by Shri Sanjay Singh, learned counsel for respondent no.6 is that the Chancellor while exercising his power under Section 31 (8) (a) of the Act is an intrinsic part of the hierarchical system of the selection mechanism and, therefore, his power cannot be curtailed or restricted, unlike the power conferred under Section 68 of the Act, where the Chancellor can interfere only under certain specific contingencies. Second submission is that if Section 31 (8) (a) of the Act is given a very narrow and a restricted meaning, then such a power would absolutely become otiose as Chancellor will have nothing to decide.

8. Before examining the rival contentions, it would be apt to quote relevant part of Section 31 of the U.P. State Universities Act, 1973 pertaining to the appointment of teachers in the University;

*"31(1) Subject to the provisions of the Act, the teachers of the University and the teachers of an affiliated or associated college (other than a college maintained exclusively by the State Government) shall be appointed by the Executive Council or the Management of the affiliated or associated college, as the case may be, on the recommendation of a Selection Committee in the manner hereinafter provided.*

*(4)(a) The Selection Committee for the appointment of a teacher of the University (other than the Director of an Institute and the Principal of a constituent college) shall consist of—*

*(i) the Vice Chancellor who shall be the Chairman thereof;*

*(ii) the head of the Department concerned;*

*(iii) in the case of a Professor or Reader, three experts, and in any other case, two experts be nominated by the Chancellor;*

*(6) No recommendation made by a Selection Committee referred to in subsection (4) shall be considered to be valid unless one of the experts had agreed to such selection.*

*(7-A) It shall be open to the Selection Committee to recommend one or more but not more than three names for each post.*

*(8)(a) In the case of appointment of a teacher of the University, if the Executive Council does not agree with the recommendation made by the Selection Committee, the Executive Council shall refer the matter to the Chancellor along with the reasons of such disagreement, and his decision shall be final.*

*Provided that if the Executive Council does not take a decision on the recommendations of the Selection Committee within a period of four months from the date of meeting of such Committee, then also the matter shall stand referred to the Chancellor, and his decision shall be final."*

9. From the aforesaid statutory scheme it is established that in the process of appointment of a teacher of a University three authorities are involved:

- (1) Selection Committee
- (2) Executive Council
- (3) Chancellor

The Selection Committee constituted under Section 31 (4) (a) of the Act contemplates that for the appointment of a teacher, the Selection Committee is to consist of (i) Vice Chancellor, who shall be the Chairman thereof; (ii) Head of Department concerned; (iii) Two Experts nominated by the Chancellor for the post of a Lecturer. The Selection Committee, so constituted, collects and collates relevant materials in respect of each candidate, who appeared before it, and makes a recommendation for selection of a candidate. Selection Committee can either recommend one candidate or prepare a panel of three candidates in the order of merit, as against one post. Presence of experts in the Selection Committee plays a pivotal role in selecting the best available candidate for which the Selection Committee comprising the experts possesses the necessary expertise. The recommendations of the Selection Committee are placed before the Executive Council, which happens to be the appointing authority of the teachers of the University and in case the Executive Council does not agree with the recommendations made by the Selection Committee, then the Executive Council shall refer the matter under Section 31 (8) (a) of the Act to the Chancellor along with reasons of such disagreement and his decision shall be final. Thus, what is referred to the Chancellor is the recommendation made by the Selection Committee and the reasons of such disagreement, so recorded, by the Executive Council and thereafter a decision is to be taken by the Chancellor as regards the appointment of a teacher.

10. Accordingly, the moot question before this Court, is what is the scope and extent of power, which is sought to be exercised by the Chancellor under Section 31 (8) (a) of the Act. In other words, is it open for the Chancellor to act as an appellate authority by assessing the relative merit of a candidate on the basis of the materials produced before him and thereafter to record a suitability of a candidate or the said power is restricted only to ensure the compliance of the provisions of the Act etc.?

11. Reverting to the facts of the present case, we find that the Selection Committee, so constituted, on 12.1.2005 was comprising of following six members : (1) Prof. Ravindra Mishra, Vice Chancellor – Chairman, (2) Prof. Vasudev Dhuse – Subject Expert, (3) Prof. K.C. Padi – Subject Expert, Dr. Uma Kant Yadav – Member OBC and Dr. Prem Prakash – Member SC and Prof. Rajeev Ranjan Singh – Head of Department. The minutes of the Selection Committee have been annexed as Annexure 4 to the counter affidavit of the University and it is also recorded in the minutes that records were examined and interviews were conducted in respect of the candidates, who appeared before it and thereafter, it prepared a panel of persons, who were to be offered appointment in the order of merit and accordingly, petitioner no.1 was placed at serial no.1 and respondent no.6 at serial no.2. The Vice Chancellor, who otherwise was a Chairman of the Selection Committee, had reserved his right to disclose his marks before the Executive Council. The Head of Department even though concurred with the unanimous recommendation of the Selection Committee in so far the placement of the petitioner at serial no.1 is concerned, but, however, he appended a note of dissent in respect of respondent no.6 and one Dr. Kamlesh Mani Tripathi. However, the Selection Committee unanimously recommended for the appointment of the petitioner on the post in question.

12. As stated above, in the first instance, the Executive Council had disagreed with the aforesaid recommendation of the Selection Committee dated 12.1.2005 and vide its resolution dated 23.1.2005 while disagreeing with the recommendations of the Selection

Committee it had straight away offered appointment to respondent no.6 on the post of lecturer and which was assailed by the petitioner before this Court by filing Civil Misc. Writ Petition No.8003 of 2005, which came to be allowed on 16.12.2005. Against the order dated 16.12.2005 respondent no.6 filed SLP No.6983 of 2006, which came to be dismissed by the Apex Court on 28.4.2006 whereby the Apex Court declined to interfere with the aforesaid decision of this Court dated 16.12.2005.

13. Pursuant to the order dated 16.12.2005 of this Court, the Executive Council again met on 29.6.2006 and deliberations of the Executive Council have been filed as Annexure 2 to the counter affidavit of respondent no.6. A perusal thereof would indicate that the Executive Council was comprising of ten members. Opinion recorded by the Executive Council is given hereunder:

1. **सुधाकर मिश्र** - मैं श्रीमती डा० प्रमोदिनी पण्डा के नियुक्तार्थ अनुमोदन करता हूँ। इसके निम्न कारण उचित प्रतीत हो रहे हैं

1. योग्यता की दृष्टि से श्रीमती प्रमोदिनी पण्डा सबसे योग्य है।  
(a) इनका बी०ए० में अंग्रेजी विषय है और इस पद पर नियुक्ति के लिए अंग्रेजी का ज्ञान अत्यन्त आवश्यक है यतः इस विभाग में विदेशी छात्र छात्राएँ विशेष रूप से अध्ययन करते हैं।
2. वयन समिति द्वारा सर्वाधिक अंक 43 (चिरालीस) इन्हें प्राप्त है।
3. वयन समिति में महामहिम कुलाधिपति महोदय के द्वारा नामित दो विषय विशेषज्ञों द्वारा भी डा० प्रमोदिनी पण्डा को सर्वाधिक अंक 16 (सोलह) प्रदान किए गये हैं।

2. **श्री योगेन्द्र नारायण पाण्डेय** उपरोक्त प्रकरण में न्यायालय का निर्णय दिनांक 16.12.05 के संदर्भ में योग्यता कम के अनुसार विशेषज्ञों द्वारा चयनित प्रमोदिनी पण्डा अर्ह हैं, रविशंकर पाण्डेय के पक्ष में उच्चतम न्यायालय ने एवं प्रमोदिनी पण्डा के पक्ष में उक्त न्यायालय ने कार्य परिषद के निर्णय को ही निर्धारित किया है। अतः प्रमोदिनी पण्डा को वरीयता कम के आधार पर सहमति की जाती है। अतः प्रमोदिनी पण्डा संस्कृत विद्या पद की अधिकारिणी हैं।

3. **प्रो० श्रीकान्त पाण्डेय** - उक्त प्रकरण में माननीय उच्च न्यायालय के निर्णय दिनांक 16.12.2005 का अध्ययन करने के बाद मैंने वयन समिति के प्रत्यावेदन का परीक्षण किया एवं पाया कि अध्यक्ष एवं सदस्यगण के अंकों को मिलाकर डा. प्रमोदिनी पण्डा अधिमान कम में प्रथम स्थान पर आती हैं। साथ ही केवल बाह्य विषय विशेषज्ञों (कुलपति एवं विभागाध्यक्ष को छोड़कर) के अंकों को मिलाकर देखने पर भी श्रीमती प्रमोदिनी पण्डा ही प्रथम स्थान पर आती हैं अतः दोनों दृष्टिकोण से संस्कृत विद्या के प्राध्यापक पद पर नियुक्ति हेतु डा० प्रमोदिनी पण्डा के नाम से मैं सर्वथा सहमत हूँ।

4. **प्रो० नरेन्द्र नाथ पाण्डेय** प्रमोदिनी पण्डा एवं रविशंकर पाण्डेय की नियुक्ति सम्बन्धी प्रपत्रों का अवलोकन किया। अधिमान कम जो वयन समिति ने निर्धारित किया उसमें वयन समिति में ही विवाद हो गया। माननीय अध्यक्ष (विभागाध्यक्ष) ने विगति लिखा, माननीय कुलपति ने भी टिप्पणी दी। अतः अधिमान विवादित हुआ। एक से माननीय कुलपति असहमत थे, माननीय विभागाध्यक्ष द्वितीय से असहमत थे। ऐसी स्थिति में यदि अध्यक्ष एवं कुलपति महोदय के अंकों को

निकाल दिया जाय तो विषय विशेषज्ञों की अंक तालिका से प्रमोदिनी पण्डा ही प्रथम अधिमान पर आती है, विभागाध्यक्ष पहले से प्रमोदिनी पण्डा के प्रति दुराग्रह (न करने का) नहीं रखते, यह कहा नहीं जा सकता क्योंकि उन्होंने माननीय कोर्ट में स्वयं पक्ष के रूप में उपस्थित हो कर डॉ० रवि शंकर पाण्डेय के पक्ष को पुष्ट करने का प्रयास किया। माननीय कुलपति ने अंक वयन समिति में ही दिया था। वन्द लिफाफे को कार्यपरिषद् में खोला गया।

उपर्युक्त कारणों के परिप्रेक्ष्य में न्याय की दृष्टि से तथा विदेशी छात्रों को पढ़ाने के अंग्रेजी भाषा की क्षमता एवं संस्कृत ज्ञान के कारण प्रमोदिनी पण्डा की नियुक्ति से सहमत।

**5. सुश्री विनीता सिंह** - महामहिम कुलाधिपति महोदय द्वारा वयन समिति में नियुक्त दो विषय विशेषज्ञों के अनुसार डॉ० प्रमोदिनी पण्डा ही उक्त पद के लिये सर्वश्रेष्ठ अर्हता है जिसकी पुष्टि उनके द्वारा डॉ० प्रमोदिनी पण्डा को दिये गये अधिमानों के योग से होती है। अतएव मैं उक्त पद हेतु महामहिम कुलाधिपति महोदय द्वारा नियुक्त दोनों विषय विशेषज्ञों की राय से सहमत होते हुए डॉ० प्रमोदिनी पण्डा की नियुक्ति का समर्थन करती हूँ।

परिषद् के एक सदस्य श्री कैलाश चन्द्र मिश्र ने निम्नलिखित कारणों के साथ इस पद के पुनर्विज्ञापन के लिए अपना मन्तव्य प्रस्तुत कि जो अधोलिखित रूप में है -

वयन समिति की बैठक दिनांक 12 जनवरी 2005 में वयन समिति के दो सदस्यों (कुलपति एवं विभागाध्यक्ष) के बीच मतभेद होने के कारण वयन समिति के संसृति को न माना जाय तथा प्राध्यापक संस्कृत विद्या के पद को पुनर्विज्ञापित किया जाय।

परिषद् के अधोलिखित दो सदस्यों ने उक्त प्रकरण पर कुलाधिपति महोदय को विचारार्थ एवं निर्णयार्थ प्रेषित करने का अधोलिखित मन्तव्य प्रस्तुत किया

1. प्रो० कृष्णचन्द्र दूबे

2. डॉ० सूर्यकान्त

प्रकरण विवादित है। न्यायालय के निर्णय के उपरान्त सदस्यों के अभिमत की प्रासंगिकता नहीं प्रतीत होती है। अतः मेरा निष्कर्ष है कि उक्त प्रकरण को समस्त सम्मिलित मूल प्रपत्रों के साथ कुलाधिपति महोदय को विचारार्थ एवं निर्णयार्थ प्रेषित किया जाय।

उक्त प्रकरण पर परिषद् के एक सदस्य डॉ० राजीव रजान सिंह ने डॉ० रविशंकर पाण्डेय की नियुक्ति का अभिमत प्रस्तुत करते हुए अधोलिखित मन्तव्य प्रस्तुत किया: -

मैं अकेले और व्यक्तिगत रूप से इस पक्ष से सहमत हूँ कि दिनांक 12 जनवरी, 2005 को सम्पन्न वयन समिति की संसृति के आधार पर दृश्यता कम एक पर स्थित श्री रविशंकर पाण्डेय की प्राध्यापक, संस्कृत विद्या के पद पर नियुक्ति की जाये। तथा कार्यपरिषद् के अधिकांश सदस्यों द्वारा दिये गये मत को अधिनियम/परिचयन तथा माननीय न्यायालयों के निर्णय के विरुद्ध और उसके क्रियान्वयन में बाधक मानते हुए कार्यपरिषद् के बहुमत के निर्णय से अपने को अलग कर रहा हूँ तथा अलग से विगति पत्र देता हूँ।

14. Accordingly, the position, which emerged after 29.6.2006 i.e. the date of the meeting of the Executive Council, was that five members were in favour of respondent no.6; one wanted readvertisement; two members desired the matter be referred to the Chancellor and one member approved the recommendation of the petitioner for appointment on the post in question and the Vice Chancellor was excluded, therefore, as there was disagreement between the recommendation of the Selection Committee and the Executive Council the matter was referred to the Chancellor.

15. The Chancellor while passing the impugned order dated 23.2.2007 in favour of respondent no.6 has placed reliance on the following materials:

(I) Five members of Executive Council have approved the appointment of respondent no.6 have based their opinion, in view of her eligibility, suitability and marks given by the experts.

(II) Comparing the academic achievements of the petitioner visavis respondent no.6, the Chancellor finds that Dr. Smt. Pramodini Panda - respondent no.6 has three published works to her credit whereas petitioner has none. Therefore, both, as per academic qualifications and published work, Dr. Smt. Pramodini Panda is more suitable than the petitioner.

(III) The Executive Council's resolution dated 29.6.2006, which has been quoted in the order of the Chancellor dated 23.2.2007, it has been stated that considering the total marks awarded to the petitioner and respondent no.6 by all the members the position, which emerged after final allocation of marks, is that respondent no.6 should be placed at serial no.1 and offered an appointment for the post of lecturer. Marks tally of the petitioner and respondent no.6 reads as under:

Chairman Members

1. Ravi Shankar 8 + 34 = 42

2. Pramodini Panda 14 + 29 = 43

3. Rama Kant Pandey 11 + 28 = 39

4. Kamlesh Mani Tripathi 12 + 28 = 40

क्र.सं.	नाम	कुल अंक	अधिमानक्रम
1.	Pramodini Panda	43	1
2.	Ravi Shankar	42	2
3.	Kamlesh Mani	40	3
4.	Rama Kant Pandey	39	

s16. In *Neelima Mishra v. Harinder Kaur Paintal and others* reported in (1990) 2 SCC746 the Apex Court had an occasion to deal with the nature of power conferred upon the Chancellor under Section 31 (8) (a) of the Act. The Apex Court held that the Chancellor is not the appellate authority in the matters of appointment. No dispute is referred before the Chancellor under Section 31 (8) (a) of the Act and that what is referred is the recommendation of the Selection Committee and the reasons of such disagreement recorded by the Executive Council. Paragraphs 24, 25, 28 and 29 of the said judgment are quoted hereinunder: "

24. In the light of these considerations, we revert to the central issue, that is with regard to the nature of the Chancellor's power under Section 31(8)(a). It may be noted that the Chancellor is one of the three authorities in the Statutory Scheme for selecting and appointing the best among the eligible candidates in the academic field. The Chancellor is not an appellate authority in matters of appointment. He is asked to take a decision, because the Executive Council who is the appointing authority has no power to reject the recommendation of the Selection Committee and take a decision deviating therefrom. The Chancellor's decision is called for when the Executive Council disagree with the recommendation of the Selection Committee. What is referred to the Chancellor under Section 31(8)(a) of the Act, is therefore, not a dispute between the Selection Committee and the Executive Council on any issue. Nor it is a dispute between two rival candidates on any controversy. What is referred to the Chancellor is the recommendation of the Selection Committee with the opinion, if any, recorded thereon by the Executive Council. In fact, even without any opinion of the Executive Council, the matter stands automatically remitted to the Chancellor if the Executive Council delays its decision on the recommendation of the Selection Committee. The proviso to Section 31 (8) (a) provides for this contingency. It reads:

"Section 31(8)(a) .....

Proviso: Provided that if the Executive Council does not take a decision on the recommendation of the Selection Committee within a period of four months from the date of the meeting of such Committee, then also the matter shall stand referred to the Chancellor, and his decision shall be final."

25. The matter thus goes to the Chancellor for decision since the Executive Council could not take a decision on the recommendation of the Selection Committee. The Chancellor in the circumstances has to examine whether the recommendation of the Selection Committee should be accepted or not. If any opinion by way of disagreement has been recorded by the Executive Council on that recommendation, the Chancellor has also to consider it. He must take a decision as to who should be appointed. It is indeed a decision with regard to appointment of a particular person or persons in the light of the recommendation and opinion if any, of the two statutory authorities. Such a decision appears to be of an administrative character much the same way as the decision of the Executive Council with regard to appointment.

28. Taking all these factors into consideration, we would sum up our opinion in this way. The power of the Chancellor under Section 31(8)(a) is purely of administrative character and is not in the nature of judicial or quasijudicial power. No judicial or quasijudicial duty is imposed on the Chancellor and any reference to judicial duty, seems to be irrelevant in the exercise of his function. The function of the Chancellor is to consider and direct appointment of a candidate on the basis of the relative performance assessed by the Expert Selection Committee and in the light of the opinion, if any, expressed by the Executive Council. His decision nonetheless is a decision on the recommendation of the Selection Committee.

29. The Chancellor, however, has to not properly for the purpose for which the power is conferred. He must take a decision in accordance with the provisions of the Act and the Statutes. He must not be guided by extraneous or irrelevant consideration. He must not act illegally, irrationally or arbitrarily. Any such illegal, irrational or arbitrary action or decision, whether in the nature of a legislative, administrative or quasijudicial exercise of power is liable to be quashed being violative of Article 14 of the Constitution....."

17. The Apex Court in the case of *Dalpat Abasaheb Solunke v. Dr.B.S. Mahajan* reported in AIR 1990 SC 434 held in para 9 as under: "

It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction."

18. Similarly, in *National Institute of Mental Health & Neuro Sciences v. Dr. K. Kalyana Raman and others* reported in AIR 1992 SC 1806 it was held in para 7 as under: "

7. ....In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with....."

19. In a yet another decision in the case of *Dr. Kumar Bar Das v. Utkal University and others* reported in (1999) 1 SCC 453 after reviewing the earlier authorities it has been held that in view of high qualifications of the experts and the reasons furnished by the Syndicate as being the obvious basis of the experts' opinion, the Chancellor ought not to have interfered with the view of the experts. The experts' view are entitled to great weight.

20. In a recent judgment in *Basavaiah (Dr.) v. Dr. H.L. Ramesh and others* reported in (2010) 8 SCC 372 the aforesaid legal proposition with regard to showing deference to the recommendation of the Selection Committee has been reiterated and it has been held that the Courts are not to sit as Court of appeal on the recommendations made by the experts, as experts have evaluated the qualifications, experiences and published works of the recommendee for an appointment. The Court further held that in academic matters, the Court have a very limited role especially when no mala fide has been alleged against the experts constituting Selection Committee and, therefore, it would be prudent and safe for the Court to leave the decisions to the academicians and experts.

21. Thus, in view of the legal pronouncement the law is absolutely clear that the recommendations of the Selection Committee are sacrosanct, which are entitled to respect and weight both by the courts and other statutory functionaries, who have a role in the selection and appointment of teachers and the scope of judicial review against the decisions of the Selection Committee is very limited.

22. In so far as, the decision in *Neelima Mishra v. Harinder Kaur Paintal and others* (supra) is concerned, the Apex Court has held that in exercise of powers conferred under Section 31 (8) (a) of the Act the Chancellor is not sitting as the appellate authority in matters of appointments and that he has to take a decision because the Executive Council, which is the appointing authority, has no power to reject the recommendation of the Selection Committee and take a contrary decision and, therefore, it is only in a case of disagreement between the recommendation of the Selection Committee and that of the Executive Council, the Chancellor is called upon to take a final call in the matter of appointment. Thus, the decision has to be taken by the Chancellor in the light of the recommendations made by the Selection Committee and the opinion/reasons recorded by the Executive Council.

23. The first ground, which has been taken by the Chancellor while passing the impugned order dated 23,2,2007 in favour of respondent no.6 is that five members of the Executive Council had approved the appointment of respondent no.6 on the post in question, as they have based their opinion in view of her eligibility, suitability and marks given by the experts.

24. There is nothing on record to show that the said five members of Executive Council were experts of the subject in question and, therefore, their opinion was not of any relevance. Moreover, one member Sudhakar Mishra has commented that as respondent no.6 has done her B.A. in English, therefore, she is more suitable than the petitioner, as in the department, students from abroad are also studying Sanskrit. This member also takes note of the fact that in all, 43 marks have been allotted to respondent no.6. This member had no competency to comment as to whether for teaching Sanskrit, B.A. in English is a desirable qualification or not. Allotment of 43 marks also could not have benefited respondent no.6, as it did contain 14 marks, which were allotted by the Vice Chancellor before the Executive Council, which has been found to be de hors the law by this Court in earlier litigation between the parties.

25. Similarly, other member namely, Yogendra Narayan Pandey too went in favour of respondent no.6, on the basis of the opinion of experts, whereas the recommendation of the Selection Committee, as a whole, had to be considered.

26. Similar is the fate of Prof. Srikant Pandey, Prof. Narendra Nath Pandey and Km. Vinita Singh, as neither of them are experts in the subject concerned. Selection of respondent no.6 cannot be based upon inclusion or exclusion of marks of few members of the Selection Committee and the sole exception being that of the Vice Chancellor/Chairman of the Selection Committee, who disclosed marks for the first time before the Executive Council only, and, as stated above, the marks allotted by him were not to be taken note of either by the Executive Council or the Chancellor.

27. Second ground taken by the Chancellor while passing the impugned order is that after comparing the academic achievements of the petitioner visavis respondent no.6 he has come to the conclusion that it is respondent no.6, who is more suitable than the petitioner, as she has three published works to her credit, whereas the petitioner has none.

28. The Chancellor and for that matter the members of the Executive Council are not experts of the subject in question and, therefore, neither of them had competency to assess the suitability on the basis of published works, as the same was within the exclusive domain of the Selection Committee comprising of subject experts, who were in a best position to examine the effect, if any, of the published works of the candidates.

29. Third ground on which the claim of the petitioner has been rejected by the Chancellor is that in view of over all score obtained by respondent no.6, she stands at serial no.1 with 43 marks, whereas the petitioner stands at serial no.42 marks. Once again, this view of the Chancellor is in the teeth of the findings recorded by the writ court in the earlier round of litigation between the parties i.e. Civil Misc. Writ Petition No.8003 of 2005, decided on 16.12.2005 wherein it has been held that the Selection Committee upon completion of selection process had become functus officio. Therefore, in the opinion of this Court the marks disclosed by the Vice Chancellor/Chairman before the Executive Council for the first time cannot be taken cognizance of. If such a novel procedure adopted by the Vice Chancellor is permitted, then the same can play havoc with the selection process by providing unfair advantage to a candidate and thereby making the selection process vulnerable and, therefore, the same was rightly disapproved. Accordingly, third ground taken by the Chancellor is not sustainable in the light of the findings/observations recorded by the writ court in earlier round of litigation between the parties.

30. In other words, the Chancellor while finding respondent no.6 to be a more suitable candidate as compared to the petitioner has placed reliance on the marks awarded by the Vice Chancellor before the Executive Council, which procedure, in fact, was held de hors the law by this Court in the aforesaid writ petition therefore, the marks given by the Vice Chancellor could not form the basis for rejection of the claim of the petitioner.

31. It is an admitted position that but for the allocation of marks by the Vice Chancellor at the stage of Executive Council, it is the petitioner alone, who is at serial no.1 with 34 marks, whereas respondent no.6 has 29 marks to her credit.

32. Sri Ashok Khare, learned Senior Counsel for the respondent no. 6 vehemently contended that if Section 31(8)(a) of the Act is given a narrow and a restricted meaning then the power which is conferred upon the Chancellor would absolutely become redundant as he will have nothing to decide.

33. Even though no limits have been defined for the exercise of the power under section 31 (8) (a) of the Act, yet considering the nature of power which is to be exercised by the Chancellor in the light of the statutory scheme and the legal position, it is evident that a

Chancellor in appropriate cases can interfere even against the recommendations of the Selection Committee, where there is an allegation of a defect in the constitution of the Selection Committee which has resulted in miscarriage of grave justice/prejudice to a

candidate or where there are allegations supported by cogent materials indicating certain bias on the part of the members of the Selection Committee or where selection is challenged on the ground of favouritism/nepotism and for which there are materials on record to draw such an inference or where selections are held in violation of the statutory and constitutional norms. These cases are only illustrative and not exhaustive and in such matters the Chancellor would be well within his jurisdiction either to constitute a fresh Selection Committee or obtain an opinion from the experts as the case may be before arriving at any decision. But certainly the Chancellor cannot and should not straight away tread in an area where even angels would fear to tread, as it is absolutely safe to leave such decisions only upon the wisdom of the Selection Committee.

34. Moreover, a Division Bench of this Court in Writ Petition No.1110 (SB) of 1993 (Dr. B.R.K. Shukla v. Chancellor, University of Lucknow and others), decided on 16.9.1996 has held as under: “

The Chancellor by exercising power under section 31 (8) (a) or Section 68 of the Act cannot reappraise or reevaluate the merit of the candidate or substitute his own views in the matter of selection of a teacher or Professor of the University particularly when the Selection Committee has arrived at the subjective satisfaction and graded one teacher to the post of Professor; a better one in comparison of others. The question whether a particular candidate fulfilled the requisite qualification or not is although based on subjective facts but it should be within the well defined provisions, of the Act and Statute”

35. Learned Senior Counsel for the respondent no. 6 further submits on the strength of the decision *Chancellor Vs. Shankar Rao and others* reported in 1991 (6) SCC 255 that unless Statute gives power to the Chancellor as was given in the said case, the power of the Chancellor should be construed without any restriction. The court is of the view that merely because limits of the power of the Chancellor are not defined under section 31 (8) (a) of the Act, that by itself can not confer absolute power on the Chancellor, in as much as, a Chancellor is not an expert of a subject and therefore, subject to the limited powers which are available to him he can not assess on his own, the relative merits and suitability of a candidate. Such a restricted power even though not by a legislative mandate fits well in the statutory scheme of selection mechanism and is also in consonance with the legal position settled by the Apex Court in the aforesaid judgments. If the argument of Mr. Khare, Learned Senior Counsel for the petitioner is accepted that a Chancellor should be given full free play in the selection mechanism, then the same could be extremely detrimental and prejudicial to the interest of the selection system as a whole.

36. Thus, in view of what has been stated above, the court would like to summarize its conclusion, which are as follows:

1. The Chancellor while passing the impugned order dated 23.2.2007 could not have placed reliance upon the opinion expressed by the five members of the Executive Council as regards the eligibility, suitability and marks given by the experts for respondent no. 6 as neither the learned Chancellor nor the members of the Executive Council were competent to comment upon the suitability of respondent no. 6.

2. The Chancellor was not competent to consider and compare the relative suitability of petitioner visavis respondent no. 6 so as to come to the conclusion that respondent no. 6 is more suitable than the petitioner.

3. Chancellor could not have based the suitability of respondent no. 6 on the total marks awarded by the Selection Committee including 14 marks awarded by the Vice Chancellor, which were disclosed before the Executive Council for the first time, as the same was in teeth of the judgment dated 16.12.2005 in Writ Petition No. 8003 of 2005 and thus, the score of petitioner and respondent no. 6 excluding the marks given by the ViceChancellor would stand at 34 and 29 respectively.

4. Recommendation of the Selection Committee dated 12.1.2005 were unanimous in favour of the petitioner and the said recommendation on the available materials did not fall within the scope of judicial review.

Accordingly, the impugned order dated 23.2.2007 passed by the learned Chancellor becomes vulnerable in law and, therefore, the same stands vitiated.

37. The writ petition succeeds and is hereby allowed. The order dated 23.2.2007 (Annexure 3 to the writ petition) passed by the learned Chancellor is setaside. We request the learned Chancellor to pass fresh orders in the light of the observations made above and in accordance with law, within a period of two months from the date of the production of certified copy of this judgment. No order as to costs.

13- माननीय उच्च न्यायालय के उपर्युक्त आदेश के परिप्रेक्ष्य में डा. रविशंकर पाण्डेय ने कुलपति महोदय को सम्बोधित एक प्रत्यावेदन दिनांक 03.03.2012 को प्रस्तुत किया। उक्त प्रत्यावेदन के परिप्रेक्ष्य में पत्र संख्या- कु.सं.3911/2012, दिनांक 04.03.2012 द्वारा महामहिम कुलाधिपति के विशेष कार्याधिकारी (विधि) से उचित दिशा-निर्देश प्रदान करने हेतु निर्देश मांगा गया।

14- माननीय उच्च न्यायालय, इलाहाबाद द्वारा याचिका संख्या-22953/2007 में दिये गये आदेश के परिप्रेक्ष्य में महामहिम कुलाधिपति महोदय ने आदेश संख्या E-5496/G.S., दिनांक 24.07.20012 द्वारा अधोलिखित आदेश प्रदान किया।

#### ORDER

1. The applicant Dr. Ravi Shankar Pandey s/o Shri Chandrika Pandey r/o Village:Khurrampur, Post:Maharani, District:Gopalganj (Bihar) has moved his representation dated 26.05.2012 with the prayer to comply with the order dated 24.02.2012 passed by the Hon'ble Allahabad High Court in Writ-A No. 22953 of 2007, Dr. Ravi Shanker Pandey Vs. State of UP and others.
2. The brief facts for purposes of disposal of the above representation dated 26.05.2012 are that Sampurnanand Sanskrit University, Varanasi issued an advertisement No. 1 of 2004 dated 06.08.2004 inviting applications for 27 posts of Lecturers including a post of Lecturer in the Department of 'Sanskrit Vidya.' It was provided in the aforesaid advertisement that in order to be eligible to apply for the aforesaid post of Lecturer (Sanskrit Vidya), a candidate should possess a degree of Acharya or Post Graduate degree in the subject with specialization in Vyakaran. About 50 candidates applied against the aforesaid advertisement. The applicant Dr. Ravi Shankar Pandey possessed a degree of Acharya in Vyakaran and had also cleared his National Eligibility Test (NET) held by the University Grants Commission and was a Ph.D. holder in Vyakaran. The applicant also claims to have taught Vyakaran in the Sanskrit Department of University as a part time lecturer for one academic session.
3. Pursuant to the above advertisement No. 1 of 2004 dated 06.08.2004, interview of the candidates took place on 12.01.2005 in which, amongst others, the applicant Dr. Ravi Shankar Pandey and one Dr. (Smt.) Pramodini Panda who was not eligible for the said post of Lecturer (Sanskrit Vidya), also appeared before the Selection Committee despite the fact that she did not possess requisite qualification as required in the advertisement and did not have a degree of Acharya or a Post Graduate degree in Sanskrit with specialization in Vyakaran.
4. The Selection Committee unanimously recommended the applicant Dr. Ravi Shankar Pandey for appointment to the post in question at serial No. 1 and also recommended Dr. (Smt.) Pramodini Panda at serial No. 2. The recommendation of the applicant was unanimous but in the case of Dr. (Smt.) Pramodini Panda there was a note of dissent by the Head of Department as he was of the view that her name should not be recommended for the reason that she did not possess

either the degree of Acharya in Vyakaran or a Post Graduate degree in the Subject with specialization in Vyakaran and also that she was not able to answer questions on Vyakaran. Accordingly, recommendations made by the Selection Committee were placed before the Executive Council of the University in its meeting held on 23.1.2005 and the Executive Council took a decision appointing Dr. (Smt.) Pramodini Panda on the post of Lecturer (Sanskrit Vidya) even though she was at serial No. 2 and accordingly an appointment order was issued in favour of Dr. (Smt.) Pramodini Panda on 23.01.2005.

5. The applicant Dr. Ravi Shankar Pandey, feeling aggrieved against the aforesaid order of appointment of Dr. (Smt.) Pramodini Panda on the post of Lecturer (Sanskrit Vidya), filed a Civil Misc. Writ Petition No. 8003 of 2005 Dr. Ravi Shankar Pandey Vs. State of U.P. and others before the Hon'ble Allahabad High Court. In the said Writ Petition, a stand was taken by the University that the Vice-Chancellor/Chairman of the Selection Committee had given his marks in a sealed cover which was disclosed for the first time before the Executive Council and on that basis Dr. (Smt.) Pramodini Panda was found comparatively more suitable than the applicant Dr. Ravi Shankar Pandey. The Hon'ble Allahabad High Court, in its judgment dated 16.12.2005 delivered in the above Writ Petition, made following observations:

- (i) *A Selection Committee takes a collective decision as a Body which cannot be affected subsequently by any act or an individual member of the Selection Committee. The decision of the Selection Committee placing the petitioner at serial number 1 was its final recommendation notwithstanding the fact that the Vice-Chancellor initially without there being any provision reserved his right to disclose the marks awarded by him before the Executive Council.*
- (ii) *The Executive Council was supposed to make appointment as per position or ranking obtained in the recommendation and it had no power to override the recommendations made by the Selection Committee and to appoint a candidate of its own choice.*
- (iii) *The Vice-Chancellor being Chairman of the Selection Committee was the master to control, manage and supervise the proceedings of the Selection Committee. He took active part in the selection process. There was absolutely no justification for the Vice-Chancellor being the Chairman of the Selection Committee in adopting a novel method even after he had some difference of opinion with the Head of Department. The 2 experts were there, who took active part when merit list was drawn. Merit list which was prepared by Prof. K.C. Panda, one of the experts in the presence of all the committee members and had been certified by the Vice-Chancellor under his signatures wherein the petitioner had been shown at serial number 1. It was part of the recommendation of the Selection Committee. The reservation made by the Vice-Chancellor could by no stretch of imagination be called as part of the recommendation by the Selection Committee.*

- (iv) *The Executive Council was, therefore, not authorized to take a different view than the view taken by the Selection Committee. In case it wanted to differ with the recommendations made by the Selection Committee, it should have referred the matter to the Chancellor under Section 31(8)(a) of the UP State Universities Act, 1973.*
- (v) *The Vice-Chancellor was not right in not disclosing the marks awarded by him before the Selection Committee in the meeting of the Selection Committee and could not do so subsequently after the meeting was over. The Executive Council also acted against law in not honoring the recommendation of the Selection Committee by changing the order of merit on the basis of a subsequent disclosure made by the Vice-Chancellor.*
- (vi) *The Selection Committee including its Chairman becomes functus officio immediately on completion of the selection process.*
- (vii) *The argument made on behalf of the respondent No. 6 that the court should be guided only by marks awarded by the two experts lacks merit. It runs counter to the statutory provisions, which contains the constitution of the Selection Committee, therefore, the said argument sans merit and is hereby rejected.*
- (viii) *According to the stand taken by the University in the aforesaid case, it was held by the Hon'ble Court that the petitioner as well as the respondent No. 6 both possessed the minimum qualification.*
- (ix) *In case the Executive Council wanted to differ with the recommendations made by the Selection Committee then the only option before it was only to refer the matter to the Chancellor u/s 31(8)(a) of the UP State Universities Act, 1973."*

6. The aforesaid judgment dated 16.12.2005 passed by the Hon'ble Allahabad High Court in Civil Misc. Writ Petition No. 8003 of 2005 Dr. Ravi Shankar Pandey Vs. State of UP & others was challenged by Dr. (Smt.) Pramodini Panda before the Hon'ble Supreme Court by filing SLP (Civil) No. 6983/2006 Pramodini Panda Vs. Ravi Shankar Pandey & others. The above SLP was dismissed by the Hon'ble Supreme Court on 28.04.2006 by observing that ***"the High Court by reason of the impugned judgment has referred the matter to the Executive Council of the University for Consideration of the matter afresh. Having regard to the facts and circumstances of this case, we are of the opinion that it is not necessary to interfere with the impugned judgment at this stage. We would request the Executive Council to take a decision in the matter as expeditiously as possible"***.

7. Pursuant to the aforesaid order dated 28.04.2006 passed by the Hon'ble Supreme Court, the matter was again placed before the Executive Council in its meeting held on 29.06.2006 and the Executive Council resolved to differ with the recommendation made by the Selection Committee and referred the matter to the Chancellor u/s 31(8)(a) of the UP State Universities Act, 1973. The then Chancellor, vide his order dated 23.02.2007, by making a comparative academic assessment of the qualifications of the two contenders namely (i) the applicant Dr. Ravi Shankar Pandey and (ii) Dr. (Smt.) Pramodini Panda, held that appointing Dr. (Smt.) Pramodini Panda on the post of Lecturer (Sanskrit Vidya) would be proper.

8. Feeling aggrieved with the aforesaid order dated 23.02.2007 passed by the Chancellor in favour of Dr. (Smt.) Pramodini Panda, the applicant Dr. Ravi Shankar Pandey filed a Writ Petition No. 22953/2007 Dr. Ravi Shankar Pandey Vs. State of UP and others before the Hon'ble Allahabad High Court and the same was allowed by the Hon'ble Court vide its order dated 24.02.2012 by setting aside the order dated 23.02.2007 passed by the then Chancellor by requesting him to pass fresh order in the light of the observations made in its above order dated 24.02.2012 and in accordance with law. This is how the above dispute in between the two contenders named above has again come up for examination and decision by the Chancellor u/s 31(8)(a) of the above UP Act, 1973.

**After examination of the reference made by the Executive Council for decision u/s. 31(8)(a) of the UP State Universities Act, 1973 in the light of the aforesaid observations made by the Hon'ble Allahabad High Court in its judgments dated 16.12.2005 and 24.02.2012 delivered in Writ Petitions No. 8003/2005 and 22953/2007 titled Dr. Ravi Shankar Pandey Vs. State of UP & Others, the observations as under are found to be relevant :**

9. After the decision dated 24.02.2012 of the Hon'ble High Court quashing the order dated 23.02.2007 passed by the Chancellor whereby the Selection of Dr. (Smt.) Pramodini Panda was upheld, the reference made by the Executive Council has once again come under consideration of the Chancellor. Besides the representation dated 26.05.2012 of the applicant Dr. Ravi Shankar Pandey, two separate representations dated 12.03.2012 and 21.03.2012 have also been addressed to the Chancellor by Dr. (Smt.) Pramodini Panda by raising therein certain new pleas that subsequent to her Selection and appointment to the post of Lecturer (Sanskrit Vidya) she has now acquired the Degree of D.Lit. and has also undergone Orientation Course and Refreshers Course. Dr. (Smt.) Pramodini Panda has also questioned the validity of the order dated 24.02.2012 of the Hon'ble High Court on various grounds (which she cannot do by means of



representations except through Review Petition to the Hon'ble High Court and SLP to the Hon'ble Supreme Court).

**10(a).** The Hon'ble Allahabad High Court while deciding the above Writ Petition No. 22953/2007 formulated following question for its decision:

*"Can a Chancellor in exercise of powers conferred under Section 31(8)(a) of the U.P. State Universities Act, 1973 (hereinafter referred to as the Act) assess the relative merit and suitability of a candidate and recommend on appointment, even though such a person has not been recommended by the Selection Committee?"*

**10(b).** The Hon'ble Court, while answering the above question in its judgment dated 24.02.2012, made following observations:

- (1) *"The Chancellor while passing the impugned order dated 23.02.2007 could not have placed reliance upon the opinion expressed by the five members of the Executive Council as regards the eligibility, suitability and marks given by the experts for respondent No. 6 (Dr. Pramodini Panda) as neither the learned Chancellor nor the members of the Executive Council were competent to comment upon the suitability of respondent No. 6 (Dr. Pramodini Panda).*
- (2) *The Chancellor was not competent to consider and compare the relative suitability of petitioner (Dr. Ravi Shankar Pandey) vis-à-vis respondent No. 6 (Dr. Pramodini Panda) so as to come to the conclusion that the respondent No. 6 (Dr. Pramodini Panda) is more suitable than the petitioner (Dr. Ravi Shankar Pandey).*
- (3) *Chancellor could not have based the suitability of respondent No. 6 (Dr. Pramodini Panda) on the total marks awarded by the Selection Committee including 14 marks awarded by the Vice-Chancellor, which were disclosed before the Executive Council for the first time, as the same was in teeth of the judgment dated 16.12.2005 in Writ Petition No. 8003 of 2005 and thus, the score of petitioner (Dr. Ravi Shankar Pandey) and respondent No. 6 (Dr. Pramodini Panda) excluding the marks given by the Vice-Chancellor would stand at 34 and 29 respectively.*
- (4) *Recommendation of the Selection Committee dated 12.01.2005 were unanimous in favour of the petitioner (Dr. Ravi Shankar Pandey) and the said recommendation on the available materials did not fall within the scope of judicial review."*

**11.** The Hon'ble High Court, while making its observations as above, allowed the aforesaid Writ Petition No. 22953 of 2007 filed by the applicant Dr. Ravi Shankar Pandey and set aside the Chancellor's order dated 23.02.2007 passed in favour of Dr. (Smt.) Pramodini Panda for her appointment on the post of Lecturer (Sanskrit Vidya). The Hon'ble High Court has requested the Chancellor to pass fresh order in the light of the observations made in its judgment dated 24.02.2012 and in accordance with law. From the aforesaid observations of the Hon'ble High Court made in its above judgment dated 24.02.2012, it is amply clear that the marks (08 to Dr. Ravi Shankar Pandey and 14 to Dr. Pramodini Panda) awarded and disclosed for the first time by the Vice-Chancellor in the meeting of the Executive Council after the Selection Committee's meeting was already over, was illegal and the same could not have been taken into consideration by the Executive Council as held by the Hon'ble High Court. Ignoring the aforesaid marks awarded by the Vice-Chancellor, the total valid marks scored by Dr. Ravi Shankar Pandey and Dr. (Smt.) Pramodini Panda came to be 34 and 29 respectively as has been concluded by the Hon'ble High Court in its above decision dated 24.02.2012 and in that view of the matter, Dr. (Smt.) Pramodini Panda did not deserve to be appointed as Lecturer (Sanskrit Vidya) and Dr. Ravi Shankar Pandey ought to have been appointed in her place by the Executive Council.

**12.** In view of the discussions as above and the observations made by the Hon'ble High Court in its aforesaid judgment dated 24.02.2012, the Vice-Chancellor of the above University is directed to call a meeting of the Executive Council within a period of two months from the date of receipt of a copy of this order and the Executive Council shall take a fresh decision in the above matter by keeping in view the observations as made hereinabove and those of the Hon'ble High Court contained in its judgment dated 24.02.2012 delivered in Writ Petition No. 22953/2007, Dr. Ravi Shankar Pandey Vs. State of UP & Others.

Sd. -  
( B.L. Joshi )  
Chancellor

Copy to :

1. Dr. Ravi Shankar Pandey s/o Shri Chandrika Pandey, Village:Khurrampur, Post:Maharani, District:Gopalganj (Bihar).
2. Dr. (Smt.) Pramodini Panda, Pradhyapika, Department of Sanskrit Vidya, Sampurnanand Sanskrit University, Varanasi.
3. Vice-Chancellor, Sampurnanand Sanskrit University, Varanasi.

( G. Pattanāik )  
Principal Secretary to Chancellor.

15- माननीय कुलाधिपति महोदय के आदेश के अनुसार इस प्रकरण पर दिनांक 17.08.2012 को कार्य परिषद् में विचार होना निश्चित हुआ।

इसी बीच माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका संख्या-37995/2012, डा. रविशंकर पाण्डेय बनाम स्टेट ऑफ यू.पी. एवं अन्य में माननीय उच्च न्यायालय ने दिनांक 06.08.2012 में आदेश प्रदान किया कि-

On the facts, this court directs that pursuant to the order of the Chancellor dated 24.7.2012 no meeting of the Executive Council of the University will take place for the purpose of consideration of the matter pursuant to the impugned order of the Chancellor but if there is any other agenda then that may proceed in accordance with law.

16- माननीय उच्च न्यायालय द्वारा याचिका संख्या-22953/2007 में दिनांक 24.02.2012 को जो निर्णय एवं आदेश पारित किया गया के परिप्रेक्ष्य में माननीय उच्चतम न्यायालय में डा. प्रमोदिनी पण्डा द्वारा प्रस्तुत विशेष अनुमति अपील (S.L.A.) No.(s)17815/2012 में माननीय उच्चतम न्यायालय ने दिनांक 11.07.2013 को निम्न आदेश प्रदान किया-

The Special leave petition is dismissed.

17- माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका संख्या-37995/2012, डा. रविशंकर पाण्डेय बनाम स्टेट ऑफ यू.पी. एवं अन्य में माननीय उच्च न्यायालय ने दिनांक 06.03.2014 में आदेश प्रदान किया कि-

Although there may be some substance that the order of the Chancellor should have been given effect and there is no reason to remand the matter to the Executive Counsel but we find that Sampurnanand Sanskrit University, Varanasi did convene a meeting of the executive council for consideration of directions issued by the Chancellor under his order dated 24.7.2012. The meeting could not take place because of the interim order passed in the present writ petition. We deem it fit and proper to modify the order dated 6.8.2008 and provide that the meeting of Executive Council shall take place on or before 26.3.2013. The decision taken in pursuance of the order of Chancellor may be reported to the Court by 27.3.2014.

List on 27.3.2014 at the top of the list.

कुलसचिव ने परिषद् को यह भी अवगत कराया कि विश्वविद्यालय अधिवक्ता श्री वेद व्यास मिश्र ने सूचित किया है कि माननीय न्यायालय के आदेश दिनांक 06.03.2014 में अंकित दिनांक 06.08.2008 एवं दिनांक 26.03.2013 के स्थान पर क्रमशः 06.08.2012 एवं 26.03.2014 है।

उपयुक्त समस्त तथ्यों एवं माननीय कुलाधिपति, माननीय उच्च न्यायालय, इलाहाबाद तथा माननीय उच्चतम न्यायालय के आदेशों के परिप्रेक्ष्य में कार्यपरिषद् इस निष्कर्ष पर पहुँचती है कि -

1- मा. उच्च न्यायालय, इलाहाबाद में योजित याचिका संख्या 8003/2005 श्री रविशंकर पाण्डेय बनाम स्टेट ऑफ यू.पी. एवं अन्य में दिनांक 16.12.2005 को दिये गये आदेश-

In view of this discussion, we find that the appointment of the respondent no.6 is illegal and contrary to Section 31(8)(a) of the Act and as such the appointment of the respondent no.6 is quashed. The matter is referred back to the Executive Council to take an appropriate decision in the matter in accordance with law. It is made clear that the question of respective qualifications of the petitioner and the respondent no.6 has not been adjudicated upon by us on merit. The authorities concerned may examine the same if it is permissible under law without being influenced by any of the observations made by this Court.

In the result the writ petition succeeds and is hereby allowed. The appointment of the respondent no.6 is hereby quashed. But the relief claimed in the petition that a write, order or

direction in the nature of Mandamus commanding the respondent authorities to appoint the petitioner as lecturer in the Department of Sanskrit Vidya of the University, cannot be granted by this Court. The Executive Council is the appointing authority and a decision in this regard has to be taken by the Executive Council first.

However no order is passed as to costs.

के अनुपालन में विश्वविद्यालय द्वारा दिनांक 26.12.2005 से डा. प्रमोदिनी पण्डा, प्राध्यापक संस्कृत विद्या विभाग की सेवा तत्काल प्रभाव से समाप्त कर दी गयी थी।

- 2- माननीय उच्च न्यायालय, इलाहाबाद के आदेश दिनांक 16.12.2005 के परिप्रेक्ष्य में माननीय उच्चतम न्यायालय में योजित एस.एल.पी.सी.नं. 6983/2006 में माननीय उच्चतम न्यायालय द्वारा दिनांक 28.04.2006 को दिये गये आदेश -

**“The High Court by reason of the impugned judgement has referred the matter to the Executive Council of the University for consideration of the matter afresh. Having regard to the facts and circumstances of the this case, we are of the opinion that it is not necessary to interfere with the impugned judgement at this stage. We would request the Executive Council to take a decision in the matter as expeditiously as possible.**

**The special leave petition is dismissed.”**

के परिप्रेक्ष्य में कार्यपरिषद् ने अपनी बैठक दिनांक 29.06.2006 में यह निर्णय लिया कि -

“12 जनवरी, 2005 को सम्पन्न चयन समिति की वरीयता क्रम एक पर स्थित डा. रविशंकर पाण्डेय की प्राध्यापक, संस्कृत विद्या के पद पर नियुक्ति न की जाय तथा द्वितीय वरीयता क्रम पर स्थित डा. प्रमोदिनी पण्डा की प्राध्यापक-संस्कृत विद्या के पद पर नियुक्ति की जाये” तथा माननीय सदस्यों को द्वारा दिये गये कारणों मन्तव्य सहित निर्णय को महामहिम कुलाधिपति महोदय को संदर्भित कर उनकी स्वीकृति प्राप्त की जाय तत्पश्चात् कार्यपरिषद् के उक्त निर्णय को क्रियान्वित किया जाय।”

- 3- कार्यपरिषद् के उपर्युक्त निर्णय के परिप्रेक्ष्य में माननीय कुलाधिपति महोदय के आदेश सं. ई.1042/जी.एस. दिनांक 23 फरवरी, 2007 के द्वारा प्राप्त स्वीकृति के पश्चात् ही विश्वविद्यालय आदेश सं.सा. 249/2007, दिनांक 21.04.2007 द्वारा डा. प्रमोदिनी पण्डा की प्राध्यापक संस्कृत विद्या के पद पर पुनः नियुक्ति हेतु आदेश निर्गत किया गया।
- 4- प्राध्यापक संस्कृत विद्या के पद पर नियुक्ति हेतु दिनांक 12.01.2005 को सम्पन्न चयन समिति की संस्तुति ही अधोलिखित कारणों से विवादास्पद है-

i. चयन समिति की बैठक में चयन समिति के अध्यक्ष (कुलपति) द्वारा अभ्यर्थियों को चयन समिति द्वारा निर्धारित प्रक्रिया के अनुसार अंक नहीं प्रदान किया गया है और उनके द्वारा चयन समिति की संस्तुति में यह अंकित किया गया है कि- “मैं अपना अंक देने का अधिकार सुरक्षित रखता हूँ जिसे कार्यकारिणी में प्रस्तुत करूँगा। संशोधित अधिमान ही मान्य होगा।” विधि सम्मत नहीं है।

ii. चयन समिति में विभागाध्यक्ष द्वारा अंकित विमति कि - “सर्वसम्मति से स्वीकृत प्रथम नाम पर सहमत। द्वितीय वरीयताक्रम पर लिखे डा.(श्रीमती) प्रमोदिनी पण्डा एवं तृतीय वरीयताक्रम पर लिखे डा. कमलेशमणि त्रिपाठी के नामों से इस आधार पर असहमत कि उनके पास व्याकरण विषय की विशिष्टता नहीं है। डा. त्रिपाठी को व्याकरण विषय का कम ज्ञान था और डा.(श्रीमती) पंडा ने भी व्याकरण विषयक कुछ प्रश्नों पर समुचित उत्तर नहीं

दिया। डा. रमाकान्त पाण्डेय को अंग्रेजी का बिल्कुल ज्ञान नहीं है। अतः मात्र प्रथम वरियता पर उल्लिखित नाम संस्तुत।" से स्पष्ट हो रहा है कि विभागाध्यक्ष ने भी दुराग्रह पूर्ण विमति अंकित की है क्योंकि प्रस्तुत विषय के चयन समिति के दोनो विषय विशेषज्ञों द्वारा अभ्यर्थियों को दिये गये अंक के अनुसार डा.रविशंकर पाण्डेय न्यून अंक (6+9) प्राप्त किये थे। मात्र विभागाध्यक्ष द्वारा दिये गये अंक के अवलोकन से स्पष्ट है कि डा. रविशंकर पाण्डेय को विभागाध्यक्ष द्वारा उपस्थित अभ्यर्थियों में सर्वाधिक अंक (13) देकर प्रथम वरियता पर लाया गया था और अन्य अभ्यर्थियों के सम्बन्ध में अभिलेखीय साक्ष्य के अभाव में भी दुराग्रह पूर्ण विमति अंकित करना अत्यन्त अनौचित्यपूर्ण था।

- iii. चयन समिति की संस्तुति विवादित होने के कारण ही माननीय उच्च न्यायालय द्वारा अन्यथा आदेश प्रदान किया गया है।

अतः उपर्युक्त तथ्यों के आलोक में माननीय कुलाधिपति महोदय के आदेश दिनांक 24.07.2012 द्वारा निर्णय हेतु प्रदत्त अधिकारों का प्रयोग करते हुए समग्र प्रकरण में गम्भीरता पूर्वक विचार विमर्श के पश्चात् कार्यपरिषद् सर्वसम्मति से यह निर्णय लेती है कि -

- i. यतः माननीय उच्च न्यायालय, इलाहाबाद में योजित याचिका सं.8003/2005 में माननीय उच्च न्यायालय, इलाहाबाद में पारित निर्णय दिनांक 16.12.2005 के अनुपालन में डा. प्रमोदिनी पण्डा की प्राध्यापक संस्कृत विद्या पद की सेवा दिनांक 26.12.2005 से समाप्त कर दी गयी थी और पुनः माननीय कुलाधिपति महोदय के आदेश सं. ई.1042/जी.एस., दिनांक 23 फरवरी, 2007 के परिप्रेक्ष्य में विश्वविद्यालय आदेश सं.सा. 249/2007, दिनांक 21.04.2007 द्वारा डा. पण्डा की पुनः प्राध्यापक संस्कृत विद्या के पद पर नियुक्ति हेतु आदेश निर्गत किया गया था। माननीय कुलाधिपति महोदय की उपर्युक्त आदेश दिनांक 23.02.2007, माननीय उच्च न्यायालय, इलाहाबाद ने याचिका सं. 22953/2007 में दिनांक 24.02.2012 के आदेश The order dated 23.2.2007 (Annexure-3 to the writ petition) passed by the learned Chancellor is set aside. कर दिया गया है और माननीय कुलाधिपति महोदय के आदेश सं. ई. 5496/जी.एस., दिनांक 24.07.2012 द्वारा माननीय कुलाधिपति महोदय द्वारा भी माननीय उच्च न्यायालय के आदेश को दृष्टि में रखते हुए विचार करने के लिये कार्यपरिषद् को कहा गया है। अतः डा. प्रमोदिनी पण्डा की विश्वविद्यालय आदेश सं.सा. 249/2007, दिनांक 21.04.2007 द्वारा प्राध्यापक संस्कृत विद्या के पद पर की गयी नियुक्ति को तत्काल प्रभाव से निरस्त करती है।
- ii. यतः प्राध्यापक संस्कृत विद्या के पद पर नियुक्ति हेतु दिनांक 12.01.2005 को सम्पन्न चयन समिति की संस्तुति ही अधोलिखित कारणों से विवादास्पद है-

- iv. चयन समिति की बैठक में चयन समिति के अध्यक्ष (कुलपति) द्वारा अभ्यर्थियों को चयन समिति द्वारा निर्धारित प्रक्रिया के अनुसार अंक नहीं प्रदान किया गया है और उनके द्वारा चयन समिति की संस्तुति में यह अंकित किया गया है कि- "मैं अपना अंक देने का अधिकार सुरक्षित रखता हूँ जिसे कार्यकारिणी में प्रस्तुत करूँगा। संशोधित अधिमान ही मान्य होगा।" विधि सम्मत नहीं है।
- v. चयन समिति में विभागाध्यक्ष द्वारा अंकित विमति कि - "सर्वसम्मति से स्वीकृत प्रथम नाम पर सहमत/द्वितीय वरीयताक्रम पर लिखे डा.(श्रीमती) प्रमोदिनी पण्डा एवं तृतीय वरीयताक्रम पर लिखे डा. कमलेशमणि त्रिपाठी के नामों से इस आधार पर असहमत कि उनके पास व्याकरण विषय की विशिष्टता नहीं है। डा. त्रिपाठी को व्याकरण विषय का कम ज्ञान था और डा.(श्रीमती) पंडा ने भी व्याकरण विषयक कुछ प्रश्नों पर समुचित उत्तर नहीं दिया। डा. रमाकान्त पाण्डेय को अंग्रेजी का बिल्कुल ज्ञान नहीं है। अतः मात्र प्रथम वरीयता पर उल्लिखित नाम संस्तुत।" से स्पष्ट हो रहा है कि विभागाध्यक्ष ने भी दुराग्रह पूर्ण विमति अंकित की है क्योंकि प्रस्तुत विषय के चयन समिति के दोनों विषय विशेषज्ञों द्वारा अभ्यर्थियों को दिये गये अंक के अनुसार डा.रविशंकर पाण्डेय न्यून अंक (6+9) प्राप्त किये थे। मात्र विभागाध्यक्ष द्वारा दिये गये अंक के अवलोकन से स्पष्ट है कि डा. रविशंकर पाण्डेय को विभागाध्यक्ष द्वारा उपस्थित अभ्यर्थियों में सर्वाधिक अंक (13) देकर प्रथम वरीयता पर लाया गया था और अन्य अभ्यर्थियों के सम्बन्ध में अभिलेखीय साक्ष्य के अभाव में भी दुराग्रह पूर्ण विमति अंकित करना अत्यन्त अनौचित्यपूर्ण था।
- vi. चयन समिति की संस्तुति विवादित होने के कारण ही माननीय उच्च न्यायालय द्वारा अन्यथा आदेश प्रदान किया गया है।

अतः कार्यपरिषद् सर्वसम्मति से निर्णय करती है कि - उक्त चयन समिति द्वारा की गयी संस्तुति को विवादास्पद होने के कारण अस्वीकार करते हुये पद को पुनः विज्ञापित किया जाये और इसकी सूचना माननीय कुलाधिपति महोदय को प्रेषित किया जाये।

अंत में माननीय अध्यक्ष महोदय ने सदस्यों को धन्यवाद ज्ञापन करते हुए सभा विसर्जन करने की घोषणा की।

कुलसचिव / सा.सं.वि.वि. वाराणसी  
 कुलसचिव  
 सं.सं.वि.वि. वाराणसी  
 24/03/14  
 वि.सं.वि.वि.  
 V.C.-25.3.14