

15 -ാം കേരള നിയമസഭ

13 -ാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നം ഇല്ലാത്ത ചോദ്യം നം. 1706

13-02-2025 - ൽ മറുപടിയ്ക്ക്

യു. ജി. സി. കരട് മാർഗരേഖ

ചോദ്യം		ഉത്തരം	
ശ്രീ. എം.വിജിൻ		ഡോ. ആർ. ബിന്ദു (ഉന്നതവിദ്യാഭ്യാസ-സാമൂഹ്യനീതി വകുപ്പ് മന്ത്രി)	
(എ)	<p>യൂണിവേഴ്സിറ്റി ഗ്രാന്റ്സ് കമ്മീഷൻ പുറത്തിറക്കിയ പുതിയ കരട് മാർഗരേഖയിൽ പ്രതിപാദിച്ചിട്ടുള്ള വിഷയങ്ങളിൽ സംസ്ഥാന സർക്കാരിന്റെ ആശങ്ക കേന്ദ്ര സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെടുത്തിയിട്ടുണ്ടോ;</p>	(എ)	<p>ഭരണഘടനയുടെ അന്തഃസത്ത ഉൾക്കൊള്ളാതെയും വൈസ്ചാൻസലർ നിയമനം മുതൽ അസിസ്റ്റന്റ് പ്രൊഫസർമാർ വരെയുള്ള നിയമന കാര്യത്തിൽ അക്കാദമിക യോഗ്യത കണക്കാക്കാതെയും സംസ്ഥാന സർക്കാരുകളുടെ അഭിപ്രായങ്ങൾ പരിഗണിക്കാതെയും പുറത്തിറക്കിയ യു.ജി.സി കരട് മാർഗ്ഗനിർദ്ദേശങ്ങൾ പിൻവലിച്ച് ബന്ധപ്പെട്ടവരുമായെല്ലാം വിശദമായ ചർച്ചകൾ നടത്തി അവരുടെ അഭിപ്രായങ്ങൾ കണക്കിലെടുത്തുകൊണ്ട് മാത്രം പുതിയ മാനദണ്ഡങ്ങൾ പുറപ്പെടുവിക്കണമെന്ന് കേന്ദ്ര സർക്കാരിനോടാവശ്യപ്പെട്ട് 21.01.2025 ന് കേരള നിയമസഭ ഐക്യകണ്ഠേന പ്രമേയം പാസ്സാക്കുകയും അത് കേന്ദ്ര സർക്കാരിൽ അയച്ചു നൽകുകയും ചെയ്തിട്ടുണ്ട്. യു.ജി.സി-യുടെ കരട് റെഗുലേഷനുകളിൽ ഉള്ള നിർദ്ദേശങ്ങൾ സംബന്ധിച്ച് സംസ്ഥാന സർക്കാരിനുള്ള എതിർപ്പ് അറിയിച്ചുകൊണ്ട് കേന്ദ്ര വിദ്യാഭ്യാസ മന്ത്രിയ്ക്ക് കത്ത് അയച്ചിരുന്നു. കൂടാതെ, ഡ്രാഫ്റ്റ് റെഗുലേഷൻ സംബന്ധിച്ച് സർക്കാരിന്റെ അഭിപ്രായം 03.02.2025 ന് കേന്ദ്ര സർക്കാരിനേയും യു.ജി.സി യെയും അറിയിച്ചിട്ടുണ്ട്.</p> <p>കരട് റെഗുലേഷനുകൾ ചർച്ച ചെയ്യുന്നതിന് സമാന ചിന്താഗതിക്കാരായ മറ്റ് സംസ്ഥാനങ്ങളുടെ പ്രതിനിധികളെക്കൂടി ഉൾപ്പെടുത്തി വിപുലമായ കൺവെൻഷൻ ചേരുന്നതിന് തീരുമാനിച്ചിട്ടുണ്ട്.</p>
(ബി)	<p>ഇത് സംസ്ഥാനത്തെ യൂണിവേഴ്സിറ്റികളെയും ഉന്നതവിദ്യാഭ്യാസ മേഖലയെയും ഏതൊക്കെ വിധത്തിലാണ് ബാധിക്കുന്നതെന്ന് പഠനം നടത്തിയിട്ടുണ്ടോ; വിശദാംശം ലഭ്യമാക്കാമോ?</p>	(ബി)	<p>യു.ജി.സി കരട് റെഗുലേഷൻ 2025 ലെ സംസ്ഥാന താൽപര്യങ്ങൾക്ക് വിരുദ്ധമായ വ്യവസ്ഥകൾ സംബന്ധിച്ച് പഠിച്ച് റിപ്പോർട്ട് തയ്യാറാക്കുന്നതിനായി പ്രൊഫസർ പ്രഭാത് പട്നായിക് അദ്ധ്യക്ഷനായി ഒരു അഞ്ചംഗ കമ്മിറ്റി രൂപീകരിച്ചിട്ടുണ്ട്. പ്രസ്തുത കമ്മിറ്റിയുടെ പ്രാഥമിക നിരീക്ഷണങ്ങളുടെ</p>

		അടിസ്ഥാനത്തിൽ ഒരു റിപ്പോർട്ട് തയ്യാറാക്കി സർക്കാരിൽ സമർപ്പിക്കുകയുണ്ടായി. പ്രസ്തുത കമ്മിറ്റി സമർപ്പിച്ച റിപ്പോർട്ട് അനുബന്ധമായി ചേർക്കുന്നു.
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സെക്ഷൻ ഓഫീസർ

അനുമതി



THE KERALA STATE HIGHER EDUCATION COUNCIL

PRELIMINARY OBSERVATIONS

DRAFT UGC (MINIMUM QUALIFICATIONS FOR APPOINTMENT AND PROMOTION OF TEACHERS AND ACADEMIC STAFF IN UNIVERSITIES AND COLLEGES AND MEASURES FOR THE MAINTENANCE OF STANDARDS IN HIGHER EDUCATION) REGULATIONS, 2025

(Government Letter
No C3/11/2025-HEDN dated 20-01-2025)

SUBMITTED TO
**THE DEPARTMENT OF HIGHER EDUCATION
GOVERNMENT OF KERALA**

JANUARY
2025

The Kerala State Higher Education Council

Preliminary Observations

on

***Draft UGC (Minimum Qualifications for Appointment and Promotion of
Teachers and Academic Staff in Universities and Colleges and Measures for
the Maintenance of Standards in Higher Education) Regulations, 2025***

(Government Letter No C3/11/2025-HEDN dated 20-01-2025)

Submitted to

**The Department of Higher Education
Government of Kerala**

**January
2025**

Review Committee

As directed by the Government vide letter No-.C3/11/2025-HEDN dated 20-01-2025 a committee comprising of the following members was constituted by the KSHEC to examine and prepare a report on the various provisions in the Draft UGC (Minimum Qualifications for Appointment and Promotion of Teachers and Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulations, 2025.

1. **Prof. Prabhat Patnaik**, Emeritus Professor, Jawaharlal Nehru University, (Chair)
2. **Prof. Rajan Gurukkal**, Vice Chairman, Kerala State Higher Education Council (Co-Chair)
3. **Prof. N. V. Varghese**, Former Vice Chancellor, National Institute of Educational Planning and Administration, New Delhi (Member)
4. **Dr. Vani Kesari**, Professor & Director, Prof N. R. Madhava Menon Interdisciplinary Centre for Research Ethics and Protocol, Cochin University of Science and Technology (Member)
5. **Dr. Rajan Varughese**, Member Secretary, Kerala State Higher Education Council, (Convenor)

Preliminary Observations

The Kerala State Higher Education Council's UGC Draft Regulations Review Committee headed by Prof. Prabhat Patnaik unanimously states at the outset that the New Draft Regulations involve serious Constitutional issues.

1. Constitutionality of the Draft Regulations, 2025:

(A) Constitutional Vision for Union Parliament was only for setting general standards and not on control of state universities established under plenary (legislative) power of competent legislatures.

According to the Constitution's Seventh Schedule, under List I, entries 63, 64, 65 and 66, the Union Parliament is given certain powers while Entry 32 of List II confers powers on state legislatures regarding incorporation and regulation of universities. In addition, Entry 25 of List III grants the Union Parliament and State legislatures the authority to enact legislation governing all aspects of education, including technical, vocational, and medical.

Entry 63 of List I confers Parliamentary power to make laws relating to universities like Delhi University, Banaras Hindu University and other Central Universities, while Entry 64 deals with institutions of scientific/ technical education/ institutions of national importance which may be financially supported by the Central Government either wholly or in part. Entry 65 gives the centre the authority to create agencies through parliamentary legislation and establish scientific or technical institutions as well as professional, vocational, or technical training institutions, while Entry 66 gives the centre the broad authority to set standards for institutions of higher education, research, or scientific and technical institutions.

Entry 66, thus, is the cause of the establishment of regulatory bodies such as the University Grants Commission (UGC), and the All India Council of Technical Education (AICTE) which oversee and supervise technical and higher education. Other coordinating agencies like Bar Council of India, Nursing Council etc are established as per the mandate under Entry 66. Thus, it is clear that States are also vested with the responsibility of regulating HEI's such as Universities, while the determination of standards is vested with the Centre.

The fundamental question is whether in the guise of setting standards of higher education UGC Draft Regulation which is a subordinate legislation made by the executive has an overarching

effect on the functioning of state universities which are established by the plenary power of competent state legislature.

2. Article 254 of the Constitution speaks about repugnancy or inconsistency of a Parliamentary legislation with State legislation in the concurrent list. It states that in case of repugnancy Parliamentary law shall prevail. Article 254 however is not about inconsistency between a State legislation and a *subordinate* legislation of Centre. Hence the justification that UGC Draft 2025, shall prevail over any state legislation is wrong; and it is also dangerous as it can be invoked to centralize any legislative field, not just education.

UGC Draft Regulations, 2025 is a subordinate legislation i.e., an executive or statutory body making a law. It is not made by a legislative body. The applicability of Article 254 is only to inconsistency between legislations of central and state legislative bodies in the concurrent list. Therefore, the following aspects may be noted:

(A) A subordinate legislation made as a part of parliamentary legislation cannot supersede a state legislation made by a competent state legislature. *Here Article 254 does not apply.*

(B) UGC Draft Regulation is not a Central Law. An executive crafted law cannot supersede legislative enactments.

(C) Entry 32 of List II conferred power on state legislatures regarding incorporation and regulation of universities. Hence the regulation of State Universities is still with the state legislature /government. However, for laying down general academic standards of HEI's, the UGC regulations can be made but not to the extent of taking over the regulation of State Universities which is exclusively within the state legislative power.

(D) The UGC Act 1956 also states (Chapter III, 12) that the steps taken by the UGC for maintaining standards have to be *in consultation with universities or other bodies concerned*, and not unilaterally prescribed (while at best asking for feedbacks that can be ignored with impunity). UGC Draft Regulations 2025 therefore exceed the UGC's own legal jurisdiction. (The fact that this may have also happened in the past is no justification for its happening now).

3. Autonomy of State Universities:

Entry 66 of List I speaks about standard setting exercise to be undertaken by Parliament. The Draft Regulations of 2025 was made by virtue of Section 26 (e) and Section 14 of UGC Act 1956. It may be seen that the power given to UGC in this regard is limited to teaching, research etc. However, this power has been extended by the Draft Regulations 2025, to the appointment of Vice Chancellors, who happen to be not only the academic but also the administrative heads of state Universities. The states are given the power to incorporate and regulate universities under Entry 32 of List II based on the regional, socio-demographic requirements. The UGC under the guise of standard setting is thus attempting to thwart the autonomy of universities created to suit their regional requirements. The respective legislations passed by the competent state legislature based on the purpose for which the University was established have laid down the criteria for selection of Vice Chancellors; the UGC Draft Regulations have stripped this Constitutionally conferred powers on State legislature and also the statutorily conferred powers on the Universities to manage their affairs. Hence UGC Regulations 2025 constitute an intrusion on the institutional autonomy of universities.

4. The Draft Regulation 2025 overrides the Parent UGC Act 1956 and therefore Unconstitutional:

Section 26 read with Section 14 of the UGC Act 1956, only confers powers with regard to defining qualification that should ordinarily be required of any person to be appointed as a member of the teaching staff in Universities and Colleges. Provisions regarding the appointment of VC's are not within the competence of UGC. Therefore, Draft Regulations are Ultra vires the parent UGC Act.

5. UGC Draft Regulations are an Intrusion on Federal Principle of the Constitution:

The UGC Draft Regulations 2025, strip the power of the states to regulate universities established and funded by them which is a constitutionally conferred power. This is a clear violation of federalism which is a basic feature of the Constitution. *The UGC's attempting to extend its reach to state universities is an assumption of power which it does not possess.*

6. Observations on Certain Provisions of Draft Regulations:

UGC Draft Regulations, 2025	Comments
<p>Clause 3.8</p> <p>Notable contributions in at least four of the nine areas mentioned are made into a minimum qualification for consideration by the selection committee for recruitment and promotion of university & college teachers...</p>	<ul style="list-style-type: none"> • These areas may be considered plus points in cases where candidates are otherwise equally proficient, but <i>there is absolutely no reason to make them a minimum qualification, for that would exclude many excellent potential teachers and researchers from applying.</i> • Most of the nine areas have to do with getting money from outside for the university. Academically excellent persons should not be expected to become money-gatherers. Insisting on such minimum qualifications betrays a corporate-driven agenda to the detriment of original academic work. • Most of the parameters are difficult for applicants to attain at the entry level, especially with the massive proliferation of pay-by-hour guest lecturer appointments whose teaching experience is otherwise also not counted. • These “notable contributions” will prove difficult especially for candidates from different regions, given the disparity in resources and uneven development of educational infrastructure in our country. • Teaching which is the main task in a university is not given the weightage that it deserves.


UGC Draft Regulations, 2025	Comments
<p>Clause 3.13</p> <p>On acquiring M.Phil. and/or Ph.D. Degree before and after the appointment to the teaching positions.</p>	<ul style="list-style-type: none"> • The motivation to do research and post-doctoral degrees is scuttled by this provision. • Since the mandate for promotion under the Draft Regulations 2025 is Ph.D and when faculty takes leave and goes for it, the condition that the period so taken would not be considered is unfair and unacceptable since if leave is not counted the concerned teacher will not engage either in meaningful research nor meaningful teaching... This affects both the quality of teaching as well as research
<p>Clause 5.6</p> <p>Clause 5.6.3</p> <p>3. If the assessment is between 1st January and 30th June of a year, promotion shall be granted from 1st July of the year.</p> <p>4. If the assessment is between 1st July and 31st December of a year, promotion shall be granted from 1st January of the following year.</p>	<ul style="list-style-type: none"> • This provision creates two time slots during which the promotion will be granted after assessment by the Selection Committee. This appears to fix solely two dates from which the promotion would take effect. Such pre-fixed promotion timelines have the propensity for financial loss and unnecessary, further delays in promotions.
<p>Clause 9.0.</p> <p>Professor of Practice:</p> <p>HEIs may engage experts/ professionals/ practitioners from</p>	<ul style="list-style-type: none"> • There would be a growing trend of intervention of private businesses and corporates in the academia and within the existing university governance model, if implemented.

UGC Draft Regulations, 2025	Comments
<p>industries/other professions for teaching and research. The engagement of the Professor of Practice will be exclusive of the sanctioned posts. The number of Professors of Practice in a HEI, at any point in time, should not exceed 10% of the sanctioned posts in a HEI.</p>	<ul style="list-style-type: none"> • Also, this clause may be considered as a divisive strategy of creating yet another layer of faculty members who cannot be easily organized on wider concerns of the teaching fraternity. • People outside the academia may come in as visiting scholars but not as faculty.
<p>Clause 10.0</p> <p>Minimum Qualifications, Experience, Accomplishments, Selection Committee, and Selection Procedure for the Appointment of Vice-Chancellor in Universities.</p> <p>10.1. A distinguished person possessing high academic qualifications and demonstrated administrative and leadership capabilities, strong alignment to constitutional values, strong social commitment, belief in teamwork, pluralism, ability to work with diverse people, with a flair for innovation and a global outlook in higher education, along with the overall vision of the institution and abilities to manage complex situations with a minimum of ten years of experience as (i) a Professor in an HEI</p>	<ul style="list-style-type: none"> • Appointment of VC's: <p>1 UGC Usurps Powers in Areas Not Spelt out in Parent Act: UGC Act 1956, does not spell out anything about appointment of VC's. However, the VC is an executive head of the University. He/ She being an administrative head performs administrative functions primarily and therefore UGC has no role in their appointment as it is a function not involving teaching or research wherein academic standards as specified in Section 26 of UGC Act are at all involved.</p> <ul style="list-style-type: none"> • State government is stripped off its role regarding the constitution of search and selection committee of VC's. • Those with no teaching/ University experience/ Research experience can be qualified to be selected as VC which is bound to damage the functioning of the Universities.

UGC Draft Regulations, 2025	Comments
<p>or (ii) at a senior level in reputed research or academic administrative organizations or (iii) at a senior level in industry, public administration, public policy and/or public sector undertakings, with a proven track record of significant academic or scholarly contributions, shall be eligible to be appointed as Vice-Chancellor.</p> <p>10. 1. iii “The Chancellor/Visitor shall constitute the Search cum Selection Committee comprising three experts.....</p> <p>10.1. iv. The following shall be the constitution of the Search cum Selection Committee.</p> <p>a) <i>a nominee of the Visitor/Chancellor, who shall be the Chairperson of the Search cum Selection Committee.</i> b) <i>a nominee of the Chairman, University Grants Commission.</i> c) a nominee of the apex body of the university such as Syndicate/ Senate/Executive Council / Board of Management/ Equivalent Body of the University.</p>	<ul style="list-style-type: none"> • Industrialists with 10 years of experience who may have no essential connection with the HEI’s and whose interest is basically the promotion of corporate interest can be selected as VC; this is bound to have long term serious adverse consequences. • No essential qualification of an Industrialist is being prescribed, which provides way to the corporatisation of higher education. • In the composition of Search and Selection Committee the state government is given no role. The Chancellor who is a representative of Central Government is made the final arbiter for a university which is established and funded by the state. What is more, the central government is given a decisive say in the selection of VCs of state universities: in the Search Committee two of the three members are nominees of the Chancellor and the UGC Chairman, both of whom are central appointees. Excluding state governments and giving a decisive role to the central government in the choice of state university VCs is a clear violation of the tenets of federalism.

Summary

The Draft UGC Regulations 2025 constitute an assault on the rights of states. This is most clearly visible in the matter of selecting Vice Chancellors in state-run universities. The guidelines give the Governor-cum-Chancellor the power to appoint the three-member Selection Committee in which the Chancellor's nominee will be the Chairperson and two members will be indirect central appointees. The power to establish and supervise state universities rests with the state governments, as per the Constitution's Seventh Schedule. The UGC's role should be limited to coordinating and setting standards for higher education and that too "in consultation with universities". The Draft Regulations not only sideline the role of state governments, which contribute around 80% of the funding for state universities, but they also undermine the democratic functioning of universities. They contain objectionable provisions that propose appointing Vice-Chancellors from the private sector, and from commercial backgrounds, instead of prioritising academic expertise within universities. This, could lead to further commercialisation of higher education and erode its integrity, ultimately undermining academic freedom and critical thinking. Hence, there is an urgent need to withdraw these Regulations and to introduce a fresh set of guidelines in consultations with State governments, and all stakeholders in higher education.


നമസ്കാർ 30.2019



The Kerala State Higher Education Council

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