

UNIVERSITY GRANTS COMMISSION & ANR.

v.

NEHA ANIL BOBDE (GADEKAR)
(Civil Appeal No. 8355 of 2013 etc.)

SEPTEMBER 19, 2013.

[K.S. RADHAKRISHNAN AND A.K. SIKRI, JJ.]

University Grants Commission Act, 1956:

ss.12 and 26 – National Eligibility Test 2012 conducted by UGC – Challenges on the ground that changes of qualifying criteria reflected in final declaration of final results was arbitrary, illegal, without authority and violative of Art. 14 of the Constitution – Held: All the steps taken by UGC were strictly in accordance with clause 7 of the Notification for NET Examination, 2012 – Prescribing the qualifying criteria as per clause 7 does not amount to a change in the rule as it was already pre-meditated in the notification – It cannot be said that the UGC has acted arbitrarily or whimsically against the candidates — To clear the NET Examination, means clearing the final results, not merely passing in individual papers, which is only the initial step — Candidate should satisfy the final qualifying criteria laid down by UGC before declaration of results — It is open to UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, i.e. for maintenance of standards of teaching, examination and research – UGC has only implemented the opinion of Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Art. 14 of the Constitution of India – University Grants Commission Regulations, 2010.

Universities:

Academic matters – Held: In academic matters, unless

A *there is a clear violation of statutory provisions, Regulations or Notification issued, courts shall keep their hands off since those issues fall within domain of the experts.*

B Pursuant to the Notification issued by the University Grants Commission (UGC) on 06.02.2012 for determination of the eligibility for the award of JRF and the eligibility for lectureship in Universities and Colleges, National Eligibility Test (NET) was conducted on 24.6.2012. On 17.9.2012, the Moderation Committee constituted by the UGC recommended that qualifying criteria for eligibility for lectureship for General, OBC (Non-Creamy Layer) and SC/ST/PWD candidates would be an aggregate percentage of 65%, 60% and 55% respectively in addition to the paper-wise minimum percentage presented in clause 7 of the UGC NET Notification for June 2012. Accordingly, the result was declared on 18.9. 2012. Subsequently, on some representations and in view of the decision of the Expert Committee, UGC prepared and declared supplementary result on 12.11.2012 qualifying 15,178 additional candidates. The candidates who had obtained the minimum marks in Paper I, Paper II and Paper III, approached the High Court seeking a declaration that the change of qualifying criteria reflected in the final declaration of results was arbitrary, illegal and violative of Art. 14 of the Constitution of India. The High Court allowed the writ petition and directed the UGC to declare the results with reference to the minimum marks prescribed.

G In the instant appeals filed by UGC and others, the question for consideration before the Court was: whether the University Grants Commission had the power to fix the final qualifying criteria, for those who have obtained the minimum marks for all the papers, before the final declaration of the results of the National Eligibility Test for the year 2012.

H

Allowing the appeals, the Court

A

HELD: 1.1 Section 12 of the UGC Act, 1956 states that it shall be the general duty of the UGC to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education. The UGC as an expert body has been entrusted by UGC Act the general duty to take such steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in Universities. It is also duty bound to perform such functions as may be prescribed or as may be deemed necessary by it for advancing the cause of higher education in India. The UGC has also got the power to define the qualification that should ordinarily be required for any person to be appointed to the teaching staff of the University and to regulate the maintenance of standards and coordination of work and faculties in the Universities. The UGC, in exercise of its powers conferred on it under the various provisions is duty bound to conduct the NET for conferring eligibility for lectureship and for awarding Junior Research Fellowship every year. [para 5,9 and 20] [528-G-H; 531-F-G; 540-B-D]

B

C

D

E

University of Delhi v. Raj Singh 1994 (3) Suppl. SCR 217 = 1994 Supp. (3) SCC 516; *University Grants Commission v. Sadhana Chaudhary and Others* 1996 (6) Suppl. SCR 392 = (1996) 10 SCC 536, *Annamalai University represented by Registrar v. Secretary to Government, Information and Tourism Department and Others* 2009 (3) SCR 355 = (2009) 4 SCC 590 – relied on

F

G

1.2. The UGC, in exercise of its powers conferred under clauses (e) and (g) of s.26(1) of the UGC Act, issued the UGC (Minimum Qualification of Teachers and other Academic Staff in Universities and Colleges and other measures for Maintenance of Standards of Higher

H

A Education) Regulations, 2010. Clause 3.3.1 of the Regulation specifically states the NET shall remain the minimum eligibility condition for recruitment and for appointment of Assistant Professors in the Universities/ Colleges/Institutions. Clause 4.4.1 stipulates that before
 B fulfilling the other prescribed qualifications, the candidates must have cleared the NET conducted by the UGC. Therefore, the power of the UGC to prescribe, as it thinks fit, the qualifying criteria for maintenance of standards of teaching, examination etc., cannot be
 C disputed. Para 7 of the Notification for holding the NET on 24.6.2012 deals with the Scheme of the Act which clearly indicates that the candidates are required to obtain minimum marks separately in Paper I, Paper II and Paper III. It also clearly indicates that only such candidates who obtain minimum required marks in each
 D paper will be considered for final preparation of results. The final qualifying criteria for JRF and eligibility for lectureship shall be decided by UGC before declaration of results. [para 23] [542-D-H; 543-A]

E 1.3. Thus, the requirements to be followed before the final declaration of the results are: (i) Candidates to obtain minimum marks separately in Paper I, Paper II and Paper III; (ii) Candidates who have satisfied the said criteria only would be subjected to a qualifying criteria
 F before the final preparation of result; (Consideration Zone); and (iii) UGC has to fix the final qualifying criteria before the declaration of results. The candidates are seeking final declaration of results the moment they have obtained the minimum marks separately in Paper I, Paper
 G II and Paper III, ignoring the other two steps and also forgetting the fact that only those who obtain the minimum required marks alone will fall in the consideration zone. All these steps have been clearly stipulated in the notification for NET Examination, 2012. [para 23-24] [543-A-E]
 H

1.4. It is to be noted that 2,04,150 candidates have obtained the minimum marks separately in Paper I, Paper II and Paper III. All those candidates were subjected to a final qualifying criteria fixed by the Committee constituted by the UGC, since they fell within the Consideration Zone. Applying the final qualifying criteria, the Committee recommended: (i) that a total of 43,974 candidates may be declared qualified for lectureship eligibility as per the qualifying criteria;(ii) that the NET Bureau may finalize the JRF awardees as per the criteria mentioned at (i) out of those candidates who had opted for JRF and have qualified for lectureship eligibility. Based on the recommendations of the Expert Committee, the final results were announced and 43,974 candidates were declared qualified for lectureship eligibility as per the qualifying criteria. Some more relaxation was also granted in favour of those who got the minimum qualifying marks since those candidates figured amongst the top 7% of all the candidates who appeared in NET, which was in addition to the candidates declared as qualified in the original result declared on 18.9.2012. 15,178 candidates were benefitted by that relaxation. Consequently, a total of 57,550 candidates were declared passed in the NET Exam. 2012. [para 25-26] [543-D-E; 544-F-H; 545-A]

1.5. All the steps taken by the UGC were strictly in accordance with clause 7 of the Notification for the NET Examination, 2012. Prescribing the qualifying criteria as per clause 7 does not amount to a change in the rule as it was already pre-meditated in the notification. It cannot be said that the UGC has acted arbitrarily or whimsically against the candidates. The UGC in exercise of its statutory powers and the laid down criteria in the notification for NET June, 2012, constituted a Moderation Committee consisting of experts for finalising the qualifying criteria for lectureship eligibility and JRF. UGC acted on the basis of the recommendations made by the

A
B
C
D
E
F
G
H

A Expert Committee. [para 27] [545-B-D]

1.6. The candidates were not misled in any manner. To clear the NET Examination, means clearing the final results, not merely passing in Paper I, Paper II and Paper III, which is only the initial step, not final; the candidate should satisfy the final qualifying criteria laid down by the UGC before declaration of the results. [para 28] [545-E-F]

1.7. In academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the courts shall keep their hands off since those issues fall within the domain of the experts. [para 29] [545-F-G]

University of Mysore vs. C.D. Govinda Rao, 1964 SCR 575 = AIR 1965 SC 491, *Tariq Islam vs. Aligarh Muslim University* 2001 (3) Suppl. SCR 689 = (2001) 8 SCC 546 and *Rajbir Singh Dalal vs. Chaudhary Devi Lal University* 2008 (11) SCR 992 = (2008) 9 SCC 284 – relied on

1.8 UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in Universities. For attaining the said standards, it is open to the UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, that is, for maintenance of standards of teaching, examination and research. Candidates declared eligible for lectureship may be considered for appointment as Assistant Professors in Universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Art. 14 of

UNIVERSITY GRANTS COMMISSION v. NEHA ANIL 527
BOBDE (GADEKAR)

the Constitution of India. [para 29] [546-B-E]

A

Case Law Reference:

1994 (3) Suppl. SCR 217 relied on para 21

1996 (6) Suppl. SCR 392 relied on para 22

B

2009 (3) SCR 355 relied on para 22

1964 SCR 575 relied on para 29

2001 (3) Suppl. SCR 689 relied on para 29

C

2008 (11) SCR 992 relied on para 29

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8355 of 2013.

From the Judgment & Order dated 29.04.2013 of the High Court of Bombay at Nagpur in WP No. 4996 of 2012.

D

WITH

Civil Appeal No. 8356 of 2013

Civil Appeal No. 8357 of 2013.

E

Mohan Parasaran, S.G., Raju Ramachandran, Nagendra Rai, V. Giri, Amitesh Kumar, Chandra Shekhar, Navin Prakash, Gopal Sankaranarayanan, Ashwati Balraj, Vikramaditya, Nirnimesh Dube, Varun Punia, Siddhart Mittal, S.K. Sabharwal, K.P. Rajagopal, A. Venayagam Balan, Arjun Garg, Nachiketa Joshi, Chaitanya Joshi, Hanmat Patil, Shantanu Sagar, Chandra Prakash, Deepak Prakash, Bineesh Karat, Vivek Kumar Varma, Haritha V.A., Dr. Vinod Kr. Tewari, Anupam Dwivedi, Pradeep Kr. Dwivedi, D.N. Dubey, R.K. Pandey, Atul Sharma, Aakarshan Sahay, Akhil Sachar, Shridhar V. Purohit, Siddesh Kotwal, Usha Nandini, V, for the appearing parties.

F

G

The Judgment of the Court was delivered by

H

A **K. S. RADHAKRISHNAN, J.** 1. Leave granted.

2. We are, in these appeals, called upon to examine whether the University Grants Commission (for short “the UGC”) has got the power to fix the final qualifying criteria, for those
B who have obtained the minimum marks for all the papers, before the final declaration of the results of the National Eligibility Test (for short “NET”) for the year 2012.

3. We have, before us, a judgment of the Division Bench of the Bombay High Court, Bench at Nagpur, which ruled that
C the UGC lacked the competence to fix the aggregate marks as the final qualifying criteria, after the candidates obtained the minimum marks, prescribed in the notification dated 6.12.2012 before the declaration of results of NET Examination, agreeing with a similar view expressed by a learned single Judge of the
D Kerala High Court.

4. Let us, at the outset, examine the scope of the University Grants Commission Act, 1956 (for short “the UGC Act”), the University Grants Commission Regulations, 2010 etc., which
E is necessary for a proper appreciation of the various contentions raised by the learned counsel on either side.

5. The UGC Act, 1956 was enacted by the Parliament under the provisions of Entry 66 List I of the Seventh Schedule of the Constitution, which entitles it to legislate in respect of “co-ordination and determination of standards in Institutions for
F higher education or research and scientific and technical education”. For the said purpose, the Act authorized the Central Government to establish a commission, by name, the University Grants Commission. Chapter III of the Act deals with the powers
G and functions of the Commission. Section 12 states that it shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance
H of standards of teaching, examination and research in

UNIVERSITY GRANTS COMMISSION v. NEHA ANIL 529
BOBDE (GADEKAR) [K.S. RADHAKRISHNAN, J.]

Universities, and for the purpose of performing its functions under the Act, the Commission has been bestowed with certain powers under the Act. Clause (j) of Section 12 reads as under: A

“12(j) perform such other functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of higher education in India or as may be incidental or conducive to the discharge of the above functions.” B

6. Section 26(1) of the UGC Act confers powers on it to make regulations consistent with the Act and the Rules. Clauses (e), (f) and (g) of Section 26 are of some relevance and are given below: C

“26.(1) The Commission may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder- D

xxx xxx xxx

(e) defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction; E

(f) defining the minimum standards of instruction for the grant of any degree by any University; F

(g) regulating the maintenance of standards and the co-ordination of work or facilities in Universities.

xxx xxx xxx” G

7. UGC, in exercise of its powers conferred under Clauses (e) and (g) of Section 26(1) of the UGC Act and in supersession of the University Grants Commission (Minimum Qualifications required for the Appointment and Career Advancement of H

A Teachers in Universities and Institutions affiliated to it)
Regulations, 2000, issued the University Grants Commission
(Minimum Qualifications for Appointment of Teachers and other
Academic Staff in Universities and Colleges and other
Measures for the Maintenance of Standards in Higher
B Education) Regulations, 2010. Regulation 2 states that the
minimum qualifications for appointment and other service
conditions of University and College teachers, Librarians and
Directors of Physical Education and Sports as a measure for
the maintenance of standards in higher education, shall be as
C provided in the Annexure to the above Regulations. Clause
3.3.1 of the Annexure reads as follows:

“3.3.1. NET/SLET/SET shall remain the minimum
eligibility condition for recruitment and appointment
of Assistant Professors in Universities /Colleges/
D Institutions.

Provided however, that candidates, who are or
have been awarded a Ph.D Degree in accordance
with the University Grants Commission (Minimum
Standards and Procedure for Award of Ph.D
E Degree) Regulations, 2009, shall be exempted
from the requirement of the minimum eligibility
condition of NET/SLET/SET for recruitment and
appointment of Assistant Profession or equivalent
F positions in Universities/ Colleges/Institutions.”

8. Clause 4.0.0 deals with Direct Recruitment. Clause 4.4.0
deals with Assistant Professor and Clause 4.4.1 deals with
various disciplines, like Art, Humanities etc and qualifications
prescribed for them read as follows:

**“4.4.1 Arts, Humanities, Sciences, Social Sciences,
Commerce, Education, Languages, Law,
G Journalism and Mass Communication**

i. Good academic record as defined by the
H

UNIVERSITY GRANTS COMMISSION v. NEHA ANIL 531
BOBDE (GADEKAR) [K.S. RADHAKRISHNAN, J.]

concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is follows) at the Master's Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.

A
B

ii. Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.

C

iii. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.1, candidates, who are, or have been awarded a Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/ Colleges/ Institutions

D
E

iv. NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted."

F

9. UGC, in exercise of its powers conferred on it under the various provisions mentioned hereinabove, is duty bound to conduct the NET for conferring eligibility for lectureship and for awarding Junior Research Fellowship (for short "JRF"). UGC conducts such a test every year.

G

10. UGC, in its 482nd meeting held on 22.12.2011, decided as under:

"During the course of discussion, the Commission

H

A also deliberated in detail the issues pertaining to objectivity
 in marking of Paper-III, transparency, reducing the inter and
 intra-examiner variability in marking of Paper-III, delays in
 B declaration of NET results, recommendations of the NET
 Moderation Committees to switch over Paper-III from
 descriptive to objective type on the pattern of CSIR- NET
 Examination wherein all the three papers are of objective
 type.

C Having regard to the above, the Commission
 decided that Paper-III be converted into objective type
 from the ensuing examination scheduled in June 2012.
 Further, the Commission also recommended that the
 action may also be initiated for the development of
 question banks.”

D 11. Notification for the NET examination was accordingly
 published on 06.02.2012 for determination of the eligibility of
 Indian Nationals for the award of JRF and the eligibility for
 lectureship in Indian Universities and Colleges.

E 12. UGC, under that Notification, announced that NET
 would be held on 24th June, 2012 and the candidates were
 directed to read the notification carefully before submission of
 the application form. Clause 3 refers to the condition of eligibility
 and Para 7 of the Notification deals with the Scheme and date
 F of test. Operative portion of Para 7 is given below for easy
 reference :-

“7. SCHEME AND DATE OF TEST:

G (i) The UGC-NET will be conducted in objective mode from
 June 2012 onwards. The Test will consist of three papers.
 All the three papers will consist of only objective type
 questions and will be held on 24th June, 2012 (SUNDAY)
 in two separate sessions as under:

H

UNIVERSITY GRANTS COMMISSION v. NEHA ANIL 533
BOBDE (GADEKAR) [K.S. RADHAKRISHNAN, J.]

Session	Paper	Marks	Number of Question	Duration
First	I	100	60 out of which 50 questions to be attempted	1 ¼ Hours (09.30 A.M. to 10.45 A.M.)
First	II	100	50 questions are compulsory	1 ¼ Hours (10.45 to 12.00 Noon)
Second	III	150	75 questions all are compulsory	2 ½ Hours (01.30 P.M. to 04.00 P.M.)

Paper-I shall be of general nature, intended to assess the teaching/research aptitude of the candidate. It will primarily be designed to test reasoning ability, comprehension, divergent thinking and general awareness of the candidate. Sixty (60) multiple choice questions of two marks each will be given, out of which the candidate would be required to answer any fifty (50). In the event of the candidate attempting more than fifty questions, the first fifty questions attempted by the candidate would be evaluated.

Paper-II shall consist of 50 objective type compulsory questions based on the subject selected by the candidate. Each question will carry 2 marks.

Paper-III shall consist of 75 objective type compulsory questions from the subject selected by the candidate. Each question will carry 2 marks.

The candidate will have to mark the responses for questions of Paper-I, Paper-II and Paper-III on the Optical Mark Reader (OMR) sheet provided along with the Test Booklet. The detailed instructions for filling up the OMR Sheet will be sent to the candidate along with the Admit Card.

The candidates are required to obtain minimum marks separately in Paper-I, Paper-II and Paper-III as given below:

A	CATEGORY	Minimum Marks (%) to be obtained		
		PAPER-I	PAPER-II	PAPER-III
	GENERAL	40 (40%)	40 (40%)	75 (50%)
B	OBC (Non-creamy layer)	35 (35%)	35 (35%)	67.5 (45%) rounded off to 68
	PH/VH/SC/ST	35 (35%)	35 (35%)	60 (40%)

C Only such candidates who obtain the minimum required marks in each Paper, separately, as mentioned above, will be considered for final preparation of result. However, the final qualifying criteria for Junior Research Fellowship (JRF) and Eligibility for Lectureship shall be decided by UGC before declaration of result."

D 13. UGC, accordingly, conducted the examination on 24th June, 2012. On 17th September, 2012, the Moderation Committee constituted by the UGC consisting of the Chairman and Secretary, UGC, former Director, NCERT, former Member of the UGC, Vice-Chancellor, Central University of Gujarat, Vice-Chancellor, Tripura University, Vice-Chancellor, Delhi University, Head, Dept. of Bio-Technology, University of Madras, Vice-Chancellor, Doon University and few other experts, met for finalising the "Qualifying Criteria" for Lectureship eligibility and took the following decision :-

"II. CONSIDERATION ZONE FOR UGC-NET

F The candidates are required to obtain minimum marks separately in Paper-I, Paper-II and Paper-III as given below:

Table (i)

G	Category	Minimum marks (%) to be obtained		
		Paper-I	Paper-II	Paper-III
	General	40(40%)	40(40%)	75 (50%)
	OBC	35(35%)	35(35%)	67.5(45%) rounded off to 68)
H	SC/ST/PWD	35(35%)	35(35%)	60(40%)

Only such candidates who obtain the minimum required marks in each Paper, separately, as mentioned above, were to be considered for final preparation of result. As many as 2.04,150 candidates fell in the above-mentioned consideration zone.

III. QUALIFYING CRITERIA FOR LECTURESHIP ELIGIBILITY

Taking cognizance of the consideration zone described above, the final qualifying criteria for Junior Research Fellowship (JRF) and Eligibility for Lectureship are to be determined by the Moderation Committee for declaration of result.

In addition to the consideration zone described above, the Committee decided to establish another category-wise benchmark for Lectureship Eligibility, i.e. aggregate percentage of all the three papers. Thus, the proposed qualifying criteria for Lectureship Eligibility are as follows:

Table (ii)

Category	Minimum Qualifying Percentage			
	Paper-I	Paper-II	Paper-III	Aggregate
General	40 %	40 %	50 %	65 %
OBC	35 %	35 %	45 %	60 %
SC/ST/PWD	35 %	35 %	40 %	55 %

As per the above criteria, it was found by the Committee that a total of 43974 candidates qualify for lectureship eligibility."

14. The Committee recommended that the General, OBC (Non-Creamy Layer) and SC/ST/PWD candidates would be

A required to obtain an aggregate percentage of 65%, 60% and 55% respectively in addition to the paper-wise minimum percentage presented in clause 7 of the UGC NET Notification for June 2012, as qualifying criteria. Based on the
 B recommendations of the Moderation Committee, result was declared on 18th September, 2012 and the category-wise qualifying criteria to the UGC-NET examination held on 24th June, 2012 was as under :

C "Category-Wise Qualifying Criteria for Lectureship Eligibility in UGC-NET held on 24th June, 2012:

Category	Minimum Qualifying Percentage			
	Paper-I	Paper-II	Paper-III	Aggregate
D General	40 %	40 %	50 %	65 %
OBC (Non Creamy Layer)	35 %	35 %	45 %	60 %
E SC/ST/PWD	35 %	35 %	40 %	55 %

15. UGC later received some representations regarding the criteria adopted for the NET-JUNE 2012 and keeping in view the same, the Commission met on 20.10.2012 and set up a five member Expert Committee from amongst the
 F Commission Members for examining the representations/grievances related to NET-JUNE 2012 and re-visit the results, if found necessary. The Committee, after examining the representations, recommended as under:-

G "(i) **Grievances related to insufficient information in the advertisement:** The Committee noted that the advertisement clearly stated that securing minimum marks required in each paper do not amount to eligibility for the purpose of NET. In the past, scores in all the three papers

H

were taken into account while preparing the list of selected candidates for the purposes of JRF. At the same time, the Committee felt that in future the announcement should make it very clear that the scores in all the three papers shall be taken into account for NET as well as JRF and that Eligibility for NET shall be determined separately for each subject by taking into account the performance of all the candidates.

(ii) Grievances related to the uniform and high cut-off for UGC-NET across various disciplines: The Committee examined the pattern of marks secured in different subjects and the proportion of candidates who were eligible for UGC-NET based on the uniform cut-off approved by the Moderation Committee. It noted that the proportion of students who made it varied hugely across the subjects, from above 30% to as low as less than 1% in many subjects. The Committee felt that this method puts candidates from several subjects to disadvantage. A fair method must also take into account the performance relative to other candidates. Accordingly, the Committee recommended a correction in the list of candidates eligible for UGC-NET held in June 2012. For this correction, additional criteria (b below) shall be used and any candidate who meets either of the following two criteria shall be eligible for UGC-NET:

- (a) Those candidates who had made it to the consideration zone, i.e. those who received a minimum of 40%, 40% & 50% marks in Paper-I, Paper-II and Paper-III respectively for General Category; 35%, 35% & 45% marks in Paper-I, Paper-II and Paper-III respectively for OBC (Non-Creamy Layer) Category and 35%, 35% & 40% marks in Paper-I, Paper-II and Paper-III respectively for SC/ST/PWD Category and those who secured aggregate percentage (obtained by combining marks of Paper-I, II & III) of 65% for General

A Category, 60% for OBC (Non-Creamy Layer) and 55% for SC/ST/PWD category candidates (This is the same criterion as described by the earlier Moderation Committee).

B OR

(b) Those candidates who figure among top 7% of all the candidates who appeared in NET; this shall be calculated separately for each discipline and for each category (SC/ST/OBC (Non-Creamy Layer)/PWD. Accordingly a cut-off will be determined for each subject and each category for this purpose. In case of tie (when several students have same identical aggregate marks) all the candidates appearing at the qualifying marks shall be included. Candidates who do not secure minimum required score in each paper and are therefore not in the consideration zone, will not be included in this list even if they fall among the top 7% within their subject and category.

E xxx xxx xxx
xxx xxx xxx'

F 16. The Committee revisited the results and decided to qualify a few additional candidates for JRF and eligibility for lectureship both and eligibility for lectureship only. Accordingly, UGC prepared supplementary result qualifying 15,178 additional candidates which was declared on 12.11.2012. This was in addition to the candidates declared as qualified in the original result of June 2012 UGC-NET declared on 18.9.2012.

G 17. Altogether 5,71,630 candidates appeared in the UGC-NET Examination, 2012, out of which 2,04,150 candidates got the minimum marks prescribed separately in Paper I, Paper II and Paper III and fell in the consideration zone. From that,

H

57,550 candidates were declared passed in the NET Examination for the year 2012, applying the qualifying criteria laid down by the Expert Committee of the UGC.

18. We notice, the candidates who have obtained the minimum marks in Paper I, Paper II and Paper III approached the High Court of Bombay at Nagpur Bench seeking a declaration that the change of qualifying criteria reflected in the final declaration of results is arbitrary, illegal and without authority of law and is violative of Article 14 of the Constitution of India. Further, it was also stated that the declaration of NET alone being the minimum eligibility standard, UGC has attempted to fix the Aggregate Criteria as an additional qualifying criteria, which action of the UGC goes beyond the scope of the notification. Further, it was also pointed out that if at all the UGC has got the power to fix any additional qualifying criteria prior to the declaration of results, the same should have been notified at the time of taking the NET examination. Further, it was also the case of the writ petitioners that the object of prescribing NET is only to have uniform standards of lecturers to be appointed across the country and to remove the disparity in evaluation by awarding the degrees by various Universities and that the UGC is not a recruiting authority. UGC, according to the candidates, is only expected to prescribe uniform standards and not to superimpose any further qualifying criteria before the declaration of the results. The High Court found favour with the contentions raised by the writ petitioners and allowed the writ petition and directed the UGC to declare the results with reference to the minimum marks prescribed for passing those papers. Aggrieved by the same, these appeals have been preferred by the UGC.

19. We have heard counsel on the either side at length. Let us, at the outset, point out that the power of the UGC to set the standard of qualifying criteria, as such, is not disputed but, it was pointed out, such qualifying criteria ought to have been notified and made known to the candidates before taking the

A examination on 24th June, 2012. After prescribing that the candidates were required to obtain minimum marks separately in Paper I, Paper II and Paper III, there is no justification in superimposing an additional qualifying criteria before the declaration of the results.

B 20. We have elaborately referred to various statutory provisions which would clearly indicate that the UGC as an expert body has been entrusted by UGC Act the general duty to take such steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in Universities. It is also duty bound to perform such functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of higher education in India. The UGC has also got the power to define the qualification that should ordinarily be required for any person to be appointed to the teaching staff of the University and to regulate the maintenance of standards and coordination of work and faculties in the Universities.

E 21. This Court in *University of Delhi v. Raj Singh* 1994 Supp. (3) SCC 516 dealt with the powers of UGC elaborately and held as follows:

F “20. The ambit of Entry 66 has already been the subject of the decisions of this Court in the cases of the *Gujarat University v. Krishna Ranganath Mudholkar* 1963 Supp 1 SCR 112 and the *Osmania University Teachers’ Association v. State of Andhra Pradesh* (1987) 4 SCC 671. The UGC Act is enacted under the provisions of Entry 66 to carry out the objective thereof. Its short title, in fact, reproduces the words of Entry 66. The principal function of the UGC is set out in the opening words of Section 12, thus:

H “It shall be the general duty of the Commission to take ... all such steps as it may think fit for the promotion and coordination of University education

UNIVERSITY GRANTS COMMISSION v. NEHA ANIL 541
BOBDE (GADEKAR) [K.S. RADHAKRISHNAN, J.]

and for the determination and maintenance of standards of teaching, examination and research in Universities”

It is very important to note that a duty is cast upon the Commission to take “all such steps as it may think fit ... for the determination and maintenance of standards of teaching”. These are very wide-ranging powers. Such powers, in our view, would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test, the passing of which would establish that they possess the minimal proficiency for holding such post. The need for such test is demonstrated by the reports of the commissions and committees of educationists referred to above which take note of the disparities in the standards of education in the various Universities in the country. It is patent that the holder of a postgraduate degree from one University is not necessarily of the same standard as the holder of the same postgraduate degree from another University. That is the rationale of the test prescribed by the said Regulations. It falls squarely within the scope of Entry 66 and the UGC Act inasmuch as it is intended to co-ordinate standards and the UGC is armed with the power to take all such steps as it may think fit in this behalf. For performing its general duty and its other functions under the UGC Act, the UGC is invested with the powers specified in the various clauses of Section 12. These include the power to recommend to a University the measures necessary for the improvement of University education and to advise in respect of the action to be taken for the purpose of implementing such recommendation [clause (d)]. The UGC is also invested with the power to perform such other functions as may be prescribed or as may be deemed necessary by it for advancing the cause of higher

A
B
C
D
E
F
G
H

A education in India or as may be incidental or conducive to the discharge of such functions [clause (j)].....”

B 22. The judgment referred to above was later followed in *University Grants Commission v. Sadhana Chaudhary and Others* (1996) 10 SCC 536, wherein this Court dealt with the recommendation of the Malhotra Committee and the powers of UGC. Reference may also be made to another judgment of this Court in *Annamalai University represented by Registrar v. Secretary to Government, Information and Tourism Department and Others* (2009) 4 SCC 590, wherein this Court
C reiterated that the UGC Act was enacted for effectuating co-ordination and determination of standards in universities and colleges.

D 23. UGC, in exercise of its powers conferred under clauses (e) and (g) of Section 26(1) of the UGC Act, issued the UGC (Minimum Qualification of Teachers and other Academic Staff in Universities and Colleges and other measures for Maintenance of Standards of Higher Education) Regulations, 2010. Clause 3.3.1 of the Regulation specifically states the NET
E shall remain the minimum eligibility condition for recruitment and for appointment of Assistant Professors in the Universities/Colleges/Institutions. Clause 4.4.1 stipulates that before fulfilling the other prescribed qualifications, the candidates must have cleared the National Eligibility Test conducted by the UGC.
F Therefore, the power of the UGC to prescribe, as it thinks fit, the qualifying criteria for maintenance of standards of teaching, examination etc. cannot be disputed. It is in exercise of the above statutory powers, the UGC has issued the notification for holding the NET on 24th June, 2012. Para 7 of the
G Notification deals with the Scheme of the Act which clearly indicates that the candidates are required to obtain minimum marks separately in Paper I, Paper II and Paper III. It also clearly indicates that only such candidates who obtain minimum required marks in each paper will be considered for final preparation of results. The final qualifying criteria for JRF
H

and eligibility for lectureship shall be decided by UGC before declaration of result. Above clause deals with the following requirements to be followed before the final declaration of the results:-

- (i) Candidates to obtain minimum marks separately in Paper I, Paper II and Paper III;
- (ii) Candidates who have satisfied the above criteria only would be subjected to a qualifying criteria before the final preparation of result; (Consideration Zone)
- (iii) UGC has to fix the final qualifying criteria before the declaration of results.

24. Candidates are seeking final declaration of results the moment they have obtained the minimum marks separately in Paper I, Paper II and Paper III, ignoring the other two steps, referred to hereinbefore, and also forgetting the fact that only those who obtain the minimum required marks alone will fall in the consideration zone. All these steps, as we have referred to above, have been clearly stipulated in the notification for NET Examination, 2012.

25. We find, 2,04,150 candidates have obtained the minimum marks separately in Paper I, Paper II and Paper III. All those candidates were subjected to a final qualifying criteria fixed by the Committee constituted by the UGC, since they fell within the Consideration Zone. Applying the final qualifying criteria, the Committee made the following recommendations:-

- (i) The Committee recommended that a total of 43,974 candidates may be declared qualified for lectureship eligibility as per the qualifying criteria given below :-

A	Category	Minimum Qualifying Percentage			
		Paper-I	Paper-II	Paper-III	Aggregate
	General	40 %	40 %	50 %	65 %
B	OBC (Non Creamy Layer)	35 %	35 %	45 %	60 %
	SC/ST/PWD	35 %	35 %	40 %	55 %

C (ii) The Committee recommended that the NET Bureau may finalize the JRF awardees as per the criteria mentioned above out of those candidates who had opted for JRF and have qualified for lectureship eligibility.

D (iii) The Committee authorized the Chairman, University Grants Commission to declare the result for eligibility for lectureship and Junior Research Fellowship as recommended by the Moderation Committee.

E While concluding the deliberations, the Committee expressed the appreciation for the painstaking effort of the NET Bureau in analyzing the results and presenting its findings.

F 26. We notice, based on the recommendations of the Expert Committee, the final results were declared and 43,974 candidates were declared qualified for lectureship eligibility as per the qualifying criteria. As already indicated, some more relaxation was also granted in favour of those persons who got the minimum qualifying marks since those candidates figured amongst the top 7% of all the candidates who appeared in NET, which was in addition to the candidates declared as qualified in the original result declared on 18.9.2012. 15,178 candidates were benefitted by that relaxation. Consequently, as already

H

stated, a total of 57,550 candidates were declared passed in the NET Exam. 2012. A

27. We are of the considered opinion that all the steps taken by the UGC were strictly in accordance with clause 7 of the Notification for the NET Examination, 2012. Prescribing the qualifying criteria as per clause 7, in our view, does not amount to a change in the rule of the game as it was already pre-meditated in the notification. We are not inclined to say that the UGC has acted arbitrarily or whimsically against the candidates. The UGC in exercise of its statutory powers and the laid down criteria in the notification for NET June, 2012, has constituted a Moderation Committee consisting of experts for finalising the qualifying criteria for lectureship eligibility and JRF. UGC acted on the basis of the recommendations made by the Expert Committee. The recommendations made by them have already been explained in the earlier part of the judgment. Reason for making such recommendations has also been highlighted in the Report. B
C
D

28. We are of the considered view that the candidates were not misled in any manner. Much emphasis has been made on the words "clearing the National Eligibility Test". "Clearing" means clearing the final results, not merely passing in Paper I, Paper II and Paper III, which is only the initial step, not final. To clear the NET Examination, as already indicated, the candidate should satisfy the final qualifying criteria laid down by the UGC before declaration of the results. E
F

29. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. This Court in *University of Mysore vs. C.D. Govinda Rao*, AIR 1965 SC 491, *Tariq Islam vs. Aligarh Muslim University* (2001) 8 SCC 546 and *Rajbir Singh Dalal vs. Chaudhary Devi Lal University* (2008) 9 SCC 284, has taken the view that the Court shall not generally sit in appeal over the opinion G
H

- A expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the
- B determination and maintenance of standards of teaching, examination and research in the University. For attaining the said standards, it is open to the UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, that is for maintenance of standards of teaching,
- C examination and research. Candidates declared eligible for lectureship may be considered for appointment as Assistant Professors in Universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the
- D universities and colleges. UGC has only implemented the opinion of the Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India.
- E 30. The Appeals are accordingly allowed and the judgment of the High Court is set aside. The Applications for Impleadment and Intervention are dismissed. There shall be no order as to costs.

R.P.

Appeals allowed.