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Vikas Chandra Rastogi, IAS



RAJ BHAVAN  
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MUMBAI 400 035

27 September, 2013

Subject : Requisition made by 27-Senate Members of the Sant Gadge Baba Amravati University under Section 108 of the Maharashtra Universities Act, 1994 regarding interpretation of Section 48 of the MU Act in the matter of filling of casual vacancies on the authorities/bodies of the University.

Reference : 1. This office letter No.CS/AU/37/08/(6725)/1950 dated 25<sup>th</sup> June 2013 to the Vice Chancellor, SGBAU.  
2. Letter No.SGBAU/1/121/A-1153/2013 dated 25<sup>th</sup> June 2013 from the I/c. Vice Chancellor, SGBAU.  
3. Letter No.SGBAU/P-100/130/2013 dated 15<sup>th</sup> July 2013 from the Vice Chancellor, SGBAU:

**Dear Dr. Khedkar,**

With reference to your letter No.SGBAU/P-100/130/2013 dated 15<sup>th</sup> July 2013, submitting therewith the reference to the Chancellor under Section 108 of the Maharashtra Universities Act, 1994 on the joint requisition dated 21.6.2013, made by 27 Members of the Senate of the Sant Gadge Baba Amravati University (SGBAU), for interpretation of Section 48 of the Act and regarding casual vacancies on the authorities and other bodies of the University to be filled by the Standing Committee constituted under Sub-section (2) of Section 50 of the MU Act, 1994, I am directed to inform you as under :-

The 27 Members of the Senate, Sant Gadge Baba Amravati University have stated that the membership of Dr. R.B. Borkar and of Dr. R.T. Vaidya, Dr. A.D. Chavan, Prof. P.M. Tayade and Dr. D.G. Bhadange, have ceased as their terms on the Senate and the Management Council have expired on 9.5.2013 and 31.8.2012, respectively. Therefore, these 5 vacancies cannot be filled by the Standing Committee of the University as these vacancies do not come under the purview of provision of Section 48 (1) and (2) of the Act.

According to the Senate Members, the casual vacancies on the authorities or other bodies get created only due to two reasons i.e. (1) resignation by member of the authority or body and (2) because of absence of the member without prior permission of the authority or body for three consecutive meetings. Therefore, the Standing Committee has power to fill casual vacancies occurred only due to any of the above reason.

According to the Vice Chancellor, SGBAU, the provision of Section 48 of the Act are regarding resignation of membership and filling in the casual vacancies of the respective authority in the respective category. However, vacancies may occur on the authorities or other bodies of the University due to any other reason. The provisions of Section 50 of the Act regarding filling up the casual vacancies by the Standing Committee needs to be considered in the light of the content of Sub-section (1) of Section 50 of the Act which categorically states that "When any vacancy.....". Though the margin note of Section 50 of the Act is 'casual vacancy and Standing Committee to fill such vacancy' but Sub-section (1) of Section 50 of the Act states that when "any vacancy" occurs in the office other than an ex-officio member, the vacancy shall be filled in by the Standing Committee. Therefore, the spirit of the content in respect of 'any vacancy' needs to be considered.

After careful consideration of all the facts and the points raised by 27 Senate Members of SGBAU in their joint requisition, the views of the Vice Chancellor of the University thereon and the legal opinion of the State Government in Law & Judiciary Department, the Chancellor has given the following ruling in the matter under Section 108 of the MU Act, 1994 :-

"The contention raised by 27 Senate Members in their requisition dated 21.6.2013 is that the Standing Committee cannot fill up the vacancies of Dr. R.B. Borkar, Dr. R.T. Vaidya, Dr. A.D. Chavan, Prof. P.M. Tayade and Dr. D.G. Bhadange as these vacancies do not come under the purview of provisions of Section such (1) and (2) of Section 48 of the Act.

From the perusal of provisions under Section 48 of the Act, it is clear that Sub-section (1) and (2) of Section 48 of the Act, it is clear that this section actually deals with only the creation of vacancy through resignation or absence. This Section is totally silent regarding the mechanism or procedure of filling such vacancies. Further the term 'casual vacancy' has not been defined anywhere in the Act or in the Section 48 or 50.

Section 50 (1) of the MU Act deals with power of the Standing Committee to fill up casual vacancies.

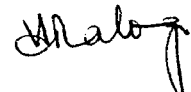
On a combined reading of Section 48 and 50 of the Act, it is clear that whereas Section 48 of the Act deals only with the vacancies caused because of resignation or the absence of member in the meetings, on the contrary, Section 50 of the Act uses the term, "Any vacancy". Section 48 of the Act does not include any other causes/reasons responsible for creating the vacancies on various authorities of the University. However, Section 50 of the MU Act is much broader than Section 48 of the Act. Section 50 of the MU Act controls Section 48. From Section 50 of the Act, it is very clear that the Standing Committee can fill up "any vacancy" that occurred before the expiry of the normal term, including the vacancies that have been occurred under Section 48 (1) and (2) of the Act.

Therefore, the contention of 27 Senate Members that the Standing Committee cannot fill the above 5 vacancies as these vacancies do not come under the purview of Section 48 (1) & (2) of the Act is not correct. As the vacancies in the present case have occurred before the expiry of normal terms of the members, these vacancies can be termed as casual vacancies to be filled by the Standing Committee irrespective of the reason for such vacancy.

Further, after the enactment of the Maharashtra Universities Act, 1994, which is common to all traditional universities, the State Government in Higher & Technical Education Department vide its Orders dated 26.6.1995 and 28.9.1995 (copies enclosed for ready reference) have issued clarification that any vacancy except the vacancies caused in the office of the ex-officio, nominated and co-opted members, shall be filled in by the Standing Committee. Therefore, any vacancy caused in the office of the elected members before the expiry of the normal term can be filled by the Standing Committee. However, the vacancies caused in the office of the ex-officio, nominated and co-opted members shall continue to be filled in by the respective officers, authorities and bodies of the University.

With regards,

Yours sincerely,



(Vikas Chandra Rastogi)

**Dr. Mohan Khedkar,**  
Vice Chancellor,  
Sant Gadge Baba Amravati University,  
Amravati.