

the Licensing Rules. I am in respectful agreement with the interpretation placed on the relevant provisions in the Licensing Rules and the conclusion reached by the learned Judge in this regard in O. P. No. 9579 of 1987. As such I would hold that a separate licence is required for the quarry unit other than the licence contained for the stone crushing factory which has to be treated as a separate unit established nearby the quarry, in the facts and circumstances of the case.

57. Learned counsel has a further contention that since explosives in the form of gun powder is intended to be stored near the quarry and is proposed to be used in the quarry, 10th respondent ought to have taken a separate licence from the Panchayat in the light of entries 40 and 63 contained in the schedule to the Licensing Rules. Since I have already found that the 10th respondent is bound to take a licence for possessing and using explosives in form 22 under the Explosives Act and Rules, I do not think that the petitioners are entitled to put forward the absence of a licence from the Panchayat as a ground to stop the quarrying activities of the 10th respondent, if he obtains a Form 22 licence for the purpose. In that event if at all it is the look out of the Panchayat and Panchayat in this case has fully supported the stand of the 10th respondent.

58. I may now summarise the conclusions reached by me as indicated below:

(1) The quarry in question is one coming within the Mines Act, 1952 and as such all the provisions of the Mines Act and the Metalliferous Mines Regulations (except those specifically excluded) would apply to the quarry in question. (2) In the light of the above finding, the 10th respondent is bound to take a licence in Form 22 for obtaining and using explosives for blasting purposes in the quarry. Ext. R-10 (t) licence obtained by the 10th respondent for possession of explosives for own use under form 22 licence is insufficient in law to use the same for blasting operations in the quarry. (3) Only a blaster as defined in

the Metalliferous Mines Regulations is entitled to supervise the blasting operations in the quarry. The person engaged by the 10th respondent who possesses only Ext. R-10 (u) shot firer's permit is not competent to conduct the blasting operations in the quarry. (4) The stone crushing factory of the 10th respondent called 'Modern Rock Mining Industries' is found to be one established after obtaining the required licence from the Panchayat, namely Ext. R-10 (o) treating the same as a separate unit from the quarry unit. (5) The 10th respondent is legally bound to obtain a separate licence from the Panchayat for the quarry treating the same as a place within the panchayat where activities mentioned at entries 84 and 87 in the Schedule to the licensing Rules are carried on by the 10th respondent.)

59. In the light of the above findings, it is evident that the 10th respondent has not satisfied all the legal requirements to be complied with before commencing and carrying on the blasting operations using explosives in the quarry which has been found to be a 'mine' coming within the purview of the Mines Act. (The statutory requirements required to be complied with before carrying on the blasting operations in a mine as defined under the Mines Act using explosives are conditions incorporated in the relevant Acts and rules with the laudable object of safeguarding the life and property of the public who are likely to be affected by such activities and also the environment. Taking note of the above fact the 10th respondent cannot be permitted to carry on the blasting operations using explosives in the quarry in question even though quantity of granite to be removed and explosives used is small. He is entitled in law to run only the stone crushing factory on the basis of the licence now issued and that too subject to the conditions mentioned in Ext. R-10 (j) no objection certificate issued by the Kerala State Pollution Control Board. As such I would hold that the 10th respondent is not entitled to commence the blasting operations using explosives in the quarry in Sy. No. 702/1-1 of Vadasserikkara village on the basis of the licences already obtained

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by him and produced in the case, until he obtains a licence in Form 22 of the Explosives Rules and a licence under section 96 of the Panchayats Act read along with entries 84 and 87 of the Schedule to the Licensing Rules.

60. However, I must add that in case the 10th respondent applies for licences required to be obtained as indicated above, the authorities concerned shall pass appropriate orders thereon in accordance with law promptly avoiding delay taking note of the huge investment already made by him for commencing the industry in question.

O. P. is disposed of accordingly. No. order as to costs.

N.N.

APPELLATE CIVIL

Mr. K. Sreedharan, The Acting Chief Justice and  
Mr. Justice, G. S. Rajan

1996 July 18

SREE SANKARACHARYA  
UNIVERSITY OF SANSKRIT  
and others

} Appellants

v.

PRASANNA KUMARI and others

.. Respondents

*See Sankaracharya University of Sanskrit Act, 1994 (Kerala Act 5 of 1994)—  
Section 24 (5) (b)—The powers, duties and functions of the first Vice-  
Chancellor are subject to all the restrictions or qualifications prescribed by  
the Act and the Statutes.*

The petitioners, who are candidates applied for various posts in the Sree Sankaracharya University of Sanskrit, challenge selections made by the first Vice-Chancellor of the University on the grounds that (i) the selection committee was improperly constituted even before the issuance of First Statutes; (ii) no qualifications were prescribed for various posts in the notification; (iii) principle of communal reservation was not followed; (iv) unqualified persons were selected in relaxation of qualification which had no authority of law, and that (v) selection committee had no guidelines whatsoever. The learned Single Judge set aside the selections. The University and aggrieved appointees have filed these Writ Appeals. Dismissing the Writ Appeals,

*Held:* The power of the Syndicate to appoint teachers, the power of the Academic Council to advise the Syndicate in respect of the qualification of teachers and the power of the Vice-Chancellor under section 26 (6) to appoint teachers are to be exercised subject to the provisions of the Act and the Statute. Section 31 is also to the same effect. Therefore the first Vice-Chancellor cannot derive any power under section 24 (5) (b) of the Act to act ignoring the mandates of the Act and the Statutes. While the first Vice-Chancellor is acting in the matter of appointment of teachers, he is only exercising the powers and performing the duties and functions of the Syndicate and the Academic Council. Therefore such powers, duties and functions are subject to

W.A. Nos. 826 to 829, 841, 891, 901, 906 to 910, 912 to 916, 922 to 924, 940, 941, 944 and 948 of 1996