

Centre vs State Tussle: Political Row over University Matters

Introduction

The Indian Education System has given birth to the brightest minds in the world today. With over 25 universities ranked in the top 1000 institutions globally, India is the epitome of innovation, intelligence, and invention. However, political interference in university matters has risen over the years, debasing the university environment and reducing them to working centers of state. One of the reasons behind it is the turf between Central and State governments. It has been there for years, and one such conflict that has become a flashpoint is the appointment of vice-chancellors. States like Kerala, West Bengal, Maharashtra, and Tamil Nadu have been opposing the powers of the Governor, who is also the Chancellor of state-run universities. Such a dispute has drifted the focus of universities and turned them into a political battlefield. Top academicians who have contributed significantly to research for our country often succumb to political pressure. The friction created by the opposing parties has an impact beyond university administration; it is toying with our institutions that bear exceptional talent. This paper aims to analyse the deeper reasons why this conflict has risen. Why do state governments want the power to appoint vice-chancellors, and why is the Centre against it? What does our law say? These are some of the questions that will be answered in this paper.

History

The Constitution of India has placed education under the Concurrent list. This means that the centre and state have some power over matters regarding the education sector. It is only natural to expect opposition parties at the state and the centre to have contradictory opinions, judgements and decisions over various matters. The appointment of vice-chancellors has been a bone of contention for decades.

The practice of appointing the Governor as ex-officio Chancellor of universities can be traced back to the pre-Independence period. In 1854, Sir Charles Wood laid the foundation of this practice by dispatching the 'The Magna Carta of English Education in India' to the court of directors. This document led the court of Directors to contemplate that it was time to establish Indian universities based on the London University Model. Accordingly, the universities of Calcutta, Bombay, and Madras were established in 1857.

Like the university back in London, these universities consisted of a chancellor, a vice-chancellor, and a senate. The Governor-General of British India was the Chancellor of Calcutta University, and the Governors of Bombay and Madras headed their State universities.

Post-independence, whenever a State university is established, it is done with the help of legislation passed by the State assembly. The law incorporates this provision of making the Governor of that State its ex-officio Chancellor. And this is why the Governor, to date, exercises power to appoint vice-chancellors. However, after Independence, the Governor became a constitutional representative.

Role of the University Grants Commission

The UGC is responsible for setting standards for appointments in universities and colleges. The topic of education comes under the Concurrent List, with subjects the State and Central government have authority over. Determination of standards in institutions for higher education or research, scientific and technical institutions come under entry 66 of the Union List.

According to the UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations of 2018, the "Visitor/Chancellor" (mostly the Governor in States) shall appoint the VC out of the panel of names recommended by search-cum-selection committees. Higher educational institutions are required to follow the regulations the UGC prescribes, particularly those that get funds from them.

Supreme Court's Stand

The Supreme Court stated that the appointment of a person as the Vice Chancellor contrary to the provisions of the UGC Regulations could violate the legal requirements and be liable to be struck down. According to the Apex Court, in case of any breach between the state legislature and Central Legislation (in this case, the UGC regulations), the latter will prevail by applying the principle of repugnancy as explained in Article 254 of the Constitution.

The doctrine of repugnancy, with respect to Article 254, states that if any part of State law is repugnant or conflicting to any part of a Central law and which the Parliament is competent to act upon, or to any part of a law of the matter of concurrent list, then the Central law made by the Parliament shall prevail and the law made by the State legislature shall become void, to the extent of its repugnancy. The subjects under the Concurrent list of the Indian Constitution come under the jurisdiction of both the State and the Central government. Education and specifically the appointment of vice-chancellors are a part of the Concurrent list and have been a point of conflict for many years.

Problems Regarding Appointment

The brawl regarding the appointment of vice-chancellors has a deeper connection to the Governor's role in state relations. The Governor is the constitutional head of State and plays a vital role in establishing a link between the Centre and State. In most cases, the Governor of the State is the

ex-officio Chancellor of the universities in that State. Governors function with the aid and advice of the Council of Ministers, and as Chancellor, they act independently of the Council of Ministers. They make their own decisions on all University matters.

Some of the powers vested with the Governor as a Chancellor are:

- Appoint the Vice-Chancellors, in consultation with the State government, by setting up a search committee, which recommends a panel of names from which they make the final selection and appointment. Consequently, the Chancellor is also vested with the authority to grant leave or institute disciplinary action and award penalties.
- Power to nominate certain members to the Executive Council/ Court of the University.
- As the designated authority, the Chancellor has the power to annul decisions of the various university bodies, which in his view, are against the regulations.
- Power to approve or withhold consent to the rules and other regulations passed by the university's Executive Council submitted to the Chancellor for assent.
- Power to hear memorandum and representation of the employees and students.
- Power to make final decisions on election disputes concerning the representation in different universities' bodies and managing committees.
- Power to nominate experts in appointing teachers of various categories in the university.
- Power to preside over the university conference and its Court/ Senate meeting.
- To draw the government's attention, streamline the academic session, and improve the standard of University Education, convenes review meetings of Vice-Chancellors and concerned ministries.
- Other powers that may be prescribed by law.

Why is there a Problem with the Governor being the Chancellor of State Universities?

The problem with the Governor's role is not just confined to university matters. Opposition parties forming the state government clash with the Governor in almost all cases. Politics lies beneath all the other reasons for the difference in the appointment of Vice Chancellors and other vital functionaries in state universities. State Governments that are formed by parties other than the ruling party at the centre alleging that the Governor, an appointee of the Union Government, creates hindrances in the working of various aspects of state administration, including the appointment of Vice Chancellors.

Friction Points in Governor-State Relations over VC Appointment

West Bengal

In June 2022, the West Bengal government, under the ministership of Mamata Banerjee, passed a bill called The West Bengal University Laws (Amendment) Bill, 2022. The Bill aimed to make the chief minister the Chancellor of state universities, thereby replacing their Governor, Mr Jagdeep Dhankar. The two parties have been at loggerheads over various issues since Mr Jagdeep Dhankhar took over as Governor in July 2019. The Governor has been trying to establish that he plays a more significant role as the Chancellor of state-run universities than the titular role the State expected him to play.

The state government supports the Chief Minister as the Chancellor of state universities, as they have accused the Governor of being the "Centre's agent". On the other side of the coin, the Governor has been vocal about the discourteous behaviour of state government members for not showing up to the meetings called upon by him. In December 2021, West Bengal's Governor claimed that appointments of vice-chancellors of 24 universities in the State were made without his approval.

The Calcutta university case has been in the news for quite a while. To summarise the issue, Ms Sonali Chakravarthi Banerjee was the vice-chancellor of Calcutta University, whose term ended in August 2021. The decision by the State to reappoint her despite the Governor's disapproval took this turf to court. The case went to the high court, and the supreme court supported the judgement. The Trinamool Congress invoked section 60 of the Calcutta university act 1079 to implement its decision. However, the High court declared that this step was misusing the 'removal of difficulty clause' to seize the power of the Chancellor to make the appointment.

The High Court also stated, "A government cannot misuse the removal of difficulty clause to remove all obstacles in its path which arise due to statutory restrictions." The Supreme Court added to this by saying that the power of appointment and reappointment has been entrusted to the Chancellor and not the state government, and misunderstanding the provisions would make them redundant.

Tamil Nadu

The Tamil Nadu government has been in a conflict with the Governor for various reasons. Earlier, it was regarding the Neet examination, which the government opposed as it contributed to economic inequality, toxic coaching culture, and discrepancies in conduct. In 2021, the legislative assembly adopted a bill to admit students for MBBS and BDS courses based on class XII examination scores. The Bill was returned by the Governor but was readopted by the house and sent back to the Governor.

To limit the Governor's powers, the Tamil Nadu state assembly passed two bills to transfer the power of the Governor to appoint vice-chancellors to the state government. The bills were The Tamil Nadu Universities Laws (Amendment) Act, 2022 and The Chennai University (Amendment) Act, 2022.

The Bills emphasise that "every appointment of the Vice-Chancellor shall be made by the Government from out of a panel of three names" recommended by a search-cum-selection committee. They also seek to empower the state government to have the final word on removing Vice chancellors if needed. Removal will also be carried out based on inquiries by a retired High Court judge or a bureaucrat who has served at least as a Chief Secretary.

According to Tamil Nadu's CM, MK Stalin, the appointment of vice-chancellors is the state government's right. Therefore, the functioning of state-run universities and vice chancellors should reflect the state government policy decisions. He also said that the Governor disregarded the State's opinion on appointing Vice-chancellors. The Chief Minister then recalled that the Punchhi Commission, while dealing with the VCs' position, said, "There will be a clash of functions and powers" if the authority to choose the top academician rests with the Governor. He added that the Punchhi Commission had recommended against the appointment of VCs by the Governor, reasoning that such power would lead to controversies and criticism. Reportedly, the Governor has been accused of operating at the command of the Centre on various subjects, including education.

Kerala

In December 2021, a controversy sparked in Kerala over the appointment of the vice-chancellor of Kannur University. The higher education minister requested the Governor, Arif Mohommad Khan, to reappoint Kannur University's vice chancellor, the 61-year-old Gopinath Ravindran, for another term of four years. The Kannur University Act prescribes an age limit of under 60 for the appointment of the Vice-chancellor. The clash between the Centre and State also worsened with the alleged illegal selection of Dr Priya Varghese as the associate professor in the Malayalam Department of Kannur University. She is the wife of former CPI(M) Rajya Sabha member K K Ragesh, working with Chief Minister Pinarayi Vijayan as his private secretary.

The Governor had appointed a selection committee, which, per the UGC guidelines, should shortlist three names for the post of vice-chancellor. However, the selection committee, which initiated the process in September this year, recommended only one name, which is against the norms laid down by the UGC. The two-month committee did not make any recommendation, which led the government to have its only nominee as the Vice-chancellor candidate. But, the Governor, who opposed it, turned down the proposal. Recommending only a single name deprived the Governor of the opportunity to choose fairly.

The state government also amended the University Act, which took away the power of the Governor as Chancellor to make appointments to the University Appellate Tribunal. Apart from that, the

amendment did not consult the high court over the VC appointments. The Governor questioned the amendments as they give absolute power to the state government in making appointments to the tribunal.

Many other states like Rajasthan, Odisha and Maharashtra have had conflicts with their respective governors regarding various issues, including the appointment of vice-chancellors. On the one hand, the states accuse governors of being biased, while the governors continue to fight for authority over decisions under the concurrent list.

Recommendations of Commissions

The Administrative Reforms Commission (1968)

The Commission recommended that the Governor's report regarding the President's rule (Article 356) be objective, and the Governor should exercise his judgment in this regard. It also recommended establishing an Inter-state Council under Article 263 of the Constitution and appointing non-partisan persons with long experience in public life and administration as Governor of a state.

Rajamannar Committee (1971)

The Tamil Nadu Government appointed the Committee in 1969 and submitted its report in 1971. It recommended deleting Articles 356 and 357 from the Constitution of India. According to the committee report, the Constitution must incorporate necessary provisions for protection against arbitrary action of the ruling party at the Centre under Article 356.

Sarkaria Commission Recommendations (1983)

The Sarkaria Commission's charter examined the country's relationship and proportion of power between state and central governments. They suggested changes within the framework of the Constitution of India. It made the following recommendations:

- The Governor should be an independent identity without intense political links or should not have taken part in politics in the recent past. Besides, he should not be a member of the ruling party. He should be appointed after consultation with the state Chief Minister and Vice President, and the PM should consult the Speaker of the Lok Sabha before his selection.
- The Governor should enjoy a term of five years.
- They should be removed before their tenure only on the grounds mentioned in the Constitution or if they violate morality, dignity, constitutional decency, etc.
- In the removal process, the state government may be informed and consulted.

- Article 356 should be used in rare cases like when restoring the breakdown of constitutional machinery in the State becomes unavoidable.
- Before taking action under Article 356, a warning should be issued to the state government that it is not functioning according to the Constitution.

S.R. Bommai Judgment (1994)

The S.R. Bommai Judgement is remarkable in the judicial domain. It challenged the blatant misuse of Article 356- President's Rule. Earlier, it was common for the central government to impose article 356 to dismiss the state government. The same thing happened with the Chief Minister of Karnataka, SR Bommai. The Supreme Court, in its final verdict, stated the following recommendations:

- The President's power to dismiss a state's government is not absolute.
- The President should use this power only after both Houses of Parliament approve his statement of imposing President's Rule. Until then, the President can only suspend the Legislative Assembly.
- If the statement does not get the approval of both Houses, it expires at the end of two months, and the dismissed government is restored. The suspended Legislative Assembly also gets revived.
- The proclamation of imposing Article 356 is subject to judicial review.

Punchhi Commission Recommendations (2007)

The Commission was constituted on 27th April 2007 to revisit the problems in Centre-State relations for the first time after the Sarkaria Commission did in 1983. The Commission said that the governors should not have the power to appoint vice-chancellors of state-run universities as it would lead to a clash of functions and powers between the state government and the governor. The Punchhi Commission made the following recommendations regarding the appointment of Governors:

1. The appointed governor should have remained away from active politics, even at the local level, for at least two years before his appointment.
2. The state chief minister should have a say in the governor's appointment.
3. There should be a committee assigned with the appointment of governors. This committee should comprise the Prime Minister, the Home Minister, the Speaker of the Lok Sabha, and the concerned state Chief Minister. Even the Vice President can be involved in the procedure.

Undoubtedly, the recommendations made by different commissions have streamlined the centre-state relation functioning. However, A sensitive approach to understanding the adverse impact of a centre-state tussle on the higher education sector is needed.

Analysis

In light of the recent controversies across states regarding the appointment of vice-chancellors and the clash between the governor and state government, we must understand that the Governor is only the constitutional head of State. Governors are appointed by the President and are expected to adhere to statute rulebooks. The advice of the Council of Ministers binds them. They are not representatives of the people but a vital link between the State and the Centre. However, this does not excuse them for having a biased approach. They must be clear and neutral and make decisions beneficial for the State and the country's general interest.

In the tug-of-war between the state and the centre, vice-chancellors are often the first casualty. While looking into the depths of conflicts over the past few years, we can see that most of them are about political differences, favouritism in appointing the governor's vice-chancellors and disregard for governors' powers. The state governments argue that the CM should appoint vice-chancellors, as the governor-appointed vice-chancellors often fail integrity tests and commitment to the university. Moreover, the vice-chancellors may not come from top academic backgrounds, leading to ineffective decision-making. In such a case, the recommendations made by different committees should be adopted. The state as well as the centre must adhere to it. There should also be means to protect university autonomy, free from the Centre and State's influence.

Recommendations

1. All universities should have the same procedure for appointing a vice-chancellor.
2. All Vice Chancellors should be appointed for a tenure of at least 5 years in order to implement policies efficiently. Currently, the tenure varies from 3-5 years in different universities. No extension of the period should be allowed. In certain states, there is a provision for year-long extensions.
3. Procedure for selection of a new Vice Chancellor should start 8 to 10 months before the office of VC is likely to get vacant. Usually the time period is six months, but it is evident that things take longer time in India to manifest materially, considering the state of affairs and turfs.
4. There should be an advisory committee of six officials comprising top academicians responsible for appointing vice-chancellors. To prevent any deadlock, two should be from the central government, two from the state, and one should be the Chairman of UGC. The nominees for the appointment should be persons of eminence in the field of education. The current process is that the governor appoints the vice-chancellors out of the three names given

by the state. However, the clashes between the state and centre over the names recommended an appointment have led to ineffective decision-making.

5. Necessary parameters should be laid down to appoint a new vice-chancellor. Years of involvement in the field of education and innovation, guidance given to the government for policy making, involvement in research, and contribution to international and national conferences can be some of them.
6. No reconstitution of the advisory and selection committee should be allowed unless the selection of the members was unconstitutional.
7. There should be a half-yearly review of vice-chancellors so they can be held accountable for their actions.
8. Political interference may lead to selecting people as vice-chancellors who are unsuitable for the position. More than administrative experience, their contribution to academia and their localised understanding of the university should be considered.

Conclusion

The tussle between the state and the centre has proven to be a bottleneck for Indian academic institutions to cross international benchmarks. This can only happen if both the centre and state governments undergo a transformation that is not politically motivated. A collaborative perspective for appointing vice-chancellors (and many other reasons) is necessary for both governments to achieve heights in the state and the nation.