D. S. REDDY

v.

CHANCELLOR, OSMANIA UNIVERSITY & ORS.

December 9, 1966

[K. SUBBA RAO, C. J., J. C. SHAH, S. M. SIKRI, V. RAMASWAMI AND C.A. VAIDIALINGAM, JJ.]

Constitution of India, Article 14—Appellant appointed Vice-Chancellor under s. 12(1) of Osmania University Act, 1959 for 5 years—Amending Act II of 1966 by new s. 13(1) reducing term of office of Vice-Chancellors to 3 years and by new s. 12(2) providing procedure for their removal—Second Amending Act XI of 1966 introducing new s. 13A providing for appointment of new Vice-Chancellor within 90 days in place of appellant—Thus benefit of s. 12(2) and s. 13(1) denied to appellant—Whether classification of existing Vice-Chancellor and future appointees justified or discriminatory.

As a result of the Osmania University (Amendment) Act II of 1966, s. 12(1) of the Osmania University Act, 1959, was amended to provide for the appointment of the Vice-Chancellor by the Chancellor alone; in s. 12(2) a provision was introduced whereby he could only be removed from office by an order of the Chancellor passed on the ground of misbehaviour or incapacity after enquiry by a person who was or had been a Judge of a High Court or the Supreme Court and after the Vice-Chancellor had been given an opportunity of making his representation against such removal Section 13(1) of the 1959 Act was also amended so as to reduce the term of office of the Vice-Chancellor from 5 to 3 years.

The 1959 Act was again amended later in 1966 by the Osmania University (Second Amendment) Act XI of 1966. Section 5 of this amending Act introduced a new s. 13A into the 1959 Act whereby it was provided that the person then holding the office of Vice-Chancellor could only hold that office until a new Vice-Chancellor was appointed; and that such new appointment must be made within 90 days of the commencement of the Act whereupon the old Vice-Chancellor would cease to hold office.

The appellant filed a writ petition claiming, *inter alia*, that s. 5 of the second amending Act introducing the new s. 13A was discriminatory as against him and therefore violative of Art. 14. The High Court dismissed the petition.

In the appeal to the Supreme Court, it was contended on behalf of the respondents that as the term of office had been reduced to 3 years by the first amending Act, the legislature in order to give effect to this provision and to enable fresh appointments to be made under the Act, had enacted s. 13A which had, necessarily, to apply to a person like the appellant who was in office at the time when the provisions came into force. Such provisions could not, in the nature of things, apply to Vice-Chancellors who were to be appointed in future; the appellant was appointed from a panel submitted by a committee constituted under the unamended s. 12(2) whereas future Vice-Chancellors were to be appointed by the Chancellor alone; furthermore, the appellant had been the Vice-Chancellor for 7 years. Having regard to these circumstances the legislature had chosen to treat the appellant as a class by himself and had differentiated him from persons to be appointed Vice-Chancellors in the

A future; that such classification was reasonable and had a rational relation to the object sought to be achieved by the second amending Act *i.e.* bringing about uniformity in the tenure of 3 years of office for all Vice-Chancellors; that the appellant was not entitled to the benefit of s. 12(2) and the legislature was competent to enact s. 13A so as to give effect to the amended provisions as early as possible.

HELD : Section 5 of the second amending Act (XI of 1966) introduc-
B ing s. 13A into the 1959 Act was discriminatory and therefore violative of Art. 14. [232 E]

There was no intelligible differentia on the basis of which a classification of Vice-Chancellors into two categories *i.e.* the appellant as the then existing Vice-Chancellor and the future Vice-Chancellors to be appointed under the Act, could be justified. The term of office of three years for the Vice-Chancellor had already been fixed by the first amend-
C ing Act. Therefore the differential principle adopted for terminating the appellant's service under s. 13A introduced by the second amending Act and directed as against the appellant alone could not be considered to have a rational relation to the object sought to be achieved by the second amending Act. *Budhan Choudhry* v. *The State of Bihar* [1955] 1 S.C.R. 1045, 1049; *Ram Krishna Dalmia* v. *Shri Justice S.R. Tendolkar* [1959] S.C.R. 279, 296; referred to. [231 B-D]

D While a Vice-Chancellor appointed under s. 12 could be removed from office only by adopting the procedure under s. 12(2), the services of the appellant, who was also a Vice-Chancellor and similarly situated were sought to be terminated by enacting s. 13A of the Act. There was no policy underlying the Act justifying this differential treatment. There was also no justification for the distinction whereby the appellant would be forced out of office within 90 days whereas all other Vice-Chancellors appointed under the Act would continue in office for three years [231
E E-G]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2313 of 1966.

Appeal by special leave from the judgment and order dated October 13, 1966 of the Andhra Pradesh High Court in Writ Petition No. 853 of 1966.

F *M.C. Setalvad. D. Narasaraju, Anwar Ullah Pasha R.V. Pillai* and *M. M. Kashatriya*, for the appellant.

Niren De, Addl. Solicitor-General, P. Ram Reddy, S. Ramachc ndra Reddy and *T.V.R. Tatachari*, for t he respondents.

The Judgment of the Court was delivered by

G **Vaidialingam, J.** This appeal, by special leave, granted by this Court, is directed against the order dated October, 13, 1966, passed by the Andhra Pradesh High Court, dismissing Writ Petition No. 853 of 1966, filed by the appellant, under Art. 226 of the Constitution.

H The appellant filed the said writ petition under the following circumstances. The appellant was the Vice-Chancellor of the Osmania University, having been appointed, as such, by order dated April 30 1964, passed by the Governor of Andhra Pradesh, in

his capacity as Chancellor of the said University. The appointment of the appellant, under the said order, as Vice-Chancellor, there is no controversy, was for a term of five years from the date of taking charge; and the appointment itself was made under sub-s. (1) of s. 12 of the Osmania University Act, 1959 (Andhra Pradesh Act No. IX of 1959). There is, again, no controversy that the appellant took charge as Vice-Chancellor, in terms of the said order, on April 30, 1964 and, as such, he became entitled to hold office for the full period of five years, which will expire at the end of April 1969.

The Osmania University was established in 1918 and the administration of the University was then governed by a Charter of His Exalted Highness, the Nizam of Hyderabad, promulgated in 1947. With effect from November 1, 1956, the State of Hyderabad ceased to exist, and the Telengana region of that State became part of Andhra Pradesh. In 1959, the Andhra Pradesh Legislature passed the Osmania University Act, 1959, earlier referred to. That Act itself was one to amend and consolidate the law relating to the Osmania University. It is only necessary to note at this stage, that under s. 12(1) of the said Act, it was provided that the Vice-Chancellor shall be appointed by the Chancellor from a panel of not less than three persons selected by a Committee, as constituted under sub-s. (2); but, if the Chancellor does not approve any of the persons so selected, he may call for a fresh panel from the Committee. Section 13, again, provided for the term of office, salary and allowances etc., of the Vice-Chancellor. Under sub-s. (1), the term of office of the Vice-Chancellor was fixed for a term of five years and there was also a further provision to the effect that he shall be eligible for reappointment.

By s. 51 of the said Act, the Osmania University Revised Charter of 1947 was repealed; but, nevertheless, it was provided that the person holding office immediately before the commencement of the Act as Vice-Chancellor, was to be the Vice-Chancellor on such commencement of the Act, and was to continue to hold the said office, in circumstances mentioned therein.

There is, again, no controversy that the appellant, who was already the Vice-Chancellor of the Osmania University from 1957, was again appointed in 1959, as Vice-Chancellor for a period of five years under this Act; and he was similarly appointed for a further term of five years, on April 30, 1964, as Vice-Chancellor, as mentioned earlier. During the middle of 1965, certain amendments were sought to be introduced in the Act by providing for removal of the Vice-Chancellor, by the Chancellor, from office under certain circumstances. There was also a proposal to reduce the term of office of the Vice-Chancellor from 5 years to 3 years, from the date of his appointment, and for provisions being made

A enabling the Government to give directions to the University relating to matters of policy to be followed by it.

The amendments sought to be introduced in the Act, appear to have come in for considerable criticism from several quarters, and these have been elaborately dealt with in the order, under attack. B According to the appellant, he was one of those who very strenuously opposed the proposed amendments on the ground that the autonomy of the University was sought to be interfered with by the Government. According to the appellant, again, the various criticisms made by him and others, were taken note of by the Inter-University Board, by the Education Minister of the Union and others. It is the further case of the appellant that it was felt by C the Government of Andhra Pradesh that he was responsible for the agitation that was being made, against the proposed amendments. But, ultimately, the Andhra Pradesh Legislature passed the Osmania University (Amendment) Act, 1966 (Act II of 1966), amending the Osmania University Act of 1959 in certain particulars. The said amendments are to the effect that the Vice-Chancellor D shall not be removed from office, except as provided for in s. 12(2) of the amended Act. The term of office was also fixed at 3 years under the amended s. 13. Another provision relating to the power of Government to give instructions to the University, was also introduced, as s. 7A; but the appellant continued as Vice-Chancellor.

E The Osmania University Act, was again amended by the Osmania University (Second Amendment) Act, 1966 (Act XI of 1966). Under this amendment, s. 13A was enacted. In brief, that section was to the effect that the person holding the office of the Vice-Chancellor, immediately before the commencement of the amending Act of 1966, was to hold office only until a new Vice-Chancellor was F appointed under sub-s. (1) of s. 12, and it also provided that such appointment shall be made within 90 days after such commencement. There was a further provision that on the appointment of such new-Vice-Chancellor, and on his entering upon his office, the person holding the office of Vice-Chancellor immediately before such appointment, shall cease to hold that office. Section 7-A, which had been introduced by Act II of 1966, was deleted. Sec- G tion 33-A was enacted, making special provision as to the re-constitution of the Senate, Syndicate, Academic Council and Finance Committee of the University.

The appellant filed Writ Petition No. 853 of 1966, in the High Court, praying for the issue of a writ or order declaring s. 5 of H the Osmania University (Second Amendment) Act. 1966, which introduced s. 13A in the original Act, as unconstitutional and void. In that writ petition, he challenged the validity of the new Section, s. 13A on several grounds. In brief, his plea was that by virtue

of his appointment as Vice-Chancellor for 5 years on April 30, 1964, he had acquired a vested right to hold that office for the full term and that such a vested right could not be taken away, during the currency of the period, by any legislative enactment. The legislature had no competence to enact the said provision inasmuch as s. 13A could not be treated as legislation in respect of University education. The appellant had also pleaded that the provision virtually amounted to removal of the appellant from his office without giving him any opportunity to show cause against such removal. According to the appellant, even assuming the Legislature was competent to enact the provision in question, nevertheless, s. 13A is unconstitutional and void, inasmuch as it offends Art. 14 of the Constitution.

We do not think it necessary to advert, elaborately, to the various other grounds of attack levelled against the constitutional validity of the provision in question, which have, no doubt, been dealt with by the High Court, because, for the purpose of disposing of this appeal, in our opinion, it is enough to refer to the grounds of attack, taken by the appellant regarding the constitutionality of s. 13A, based upon Art. 14 of the Constitution.

So far as this aspect is concerned, according to the appellant, s. 9 of Act II, of 1966 amended the Act of 1959 by incorporating new sub-ss. (1) and (2) in s. 12. Under sub-s. (1) of s. 12, the Vice-Chancellor is to be appointed by the Chancellor. Under sub-s. (2), the Vice-Chancellor shall not be removed from his office except by an order of the Chancellor passed on the ground of mis-behaviour or incapacity; and it also provided for such an order being passed only after due enquiry by a person who is or has been a Judge of a High Court or the Supreme Court, as may be appointed by the Chancellor, and the Vice-Chancellor being given an opportunity of making his representation against the removal. Therefore, in view of these provisions, the Vice-Chancellor could not be removed by the Chancellor without any cause, without reason, without enquiry and without an opportunity being given to him to show cause against removal. This provision applied to the appellant, who was in office, on the date of the passing of Act II of 1966, as well as Act XI of 1966. Nevertheless, s. 5 of Act XI of 1966 incorporated s.13A in the principal Act. Under that section, not only has power been conferred on the Chancellor, but also a duty imposed, so to say, on him, to remove the appellant, who was the Vice-Chancellor, without any reason or justification or even giving an opportunity to him to show cause against such removal. No enquiry, before ordering such removal, is contemplated under this section. Further, while a Vice-Chancellor, who is appointed after the passing of Act XI of 1966, cannot be removed from office, except in accordance with the provisions of sub-s. (2) of s. 12, the appellant, who was already in office, could be arbitrarily and

A illegally removed under s. 13A of the Act. There is no provision, again, similar to s. 13A, applicable to a Vice-Chancellor, appointed after the coming into force of the amending Act. Therefore, according to the appellant, the provisions contained in s. 13A are clearly directed only against him, as he was the person holding office, prior to the amending Act, and therefore it is a clear case
B of hostile discrimination.

Further, according to the appellant, persons appointed as Vice-Chancellors, constitute a group and must be considered as persons similarly situated and they must be treated alike; whereas, by virtue of s. 13A, a differentiation is made between the appellant, who was a Vice-Chancellor on the date of the commencement of
C the Amending Act and other persons who are to be appointed as Vice-Chancellors thereafter. This differentiation, according to the appellant, is again without any basis; nor has such a classification, any reasonable relation to the main object of the legislation.

The appellant also relied on s. 33A, introduced by s. 6 of Act XI of 1966, relating to the reconstitution of the Senate, Syndicate,
D Academic Council and the Finance Committee and pleaded that whereas those academic bodies or authorities were allowed to continue without any time-limit and to function until they were reconstituted, regarding the Vice-Chancellor alone, a period of 90 days had been fixed, under the Amending Act, within which the Chancellor was bound to appoint another Vice-Chancellor. This,
E again, is a clear proof of discrimination against the appellant.

The respondents controverted the stand taken on behalf of the appellant. Apart from supporting the competency of the Legislature to enact the measure, in question, they urge that Art. 14 of the Constitution has no application at all. According to the respondents, inasmuch as the term of office of the Vice- Chancellor
F had been reduced to three years, as per Act II of 1966, it was thought fit by the Legislature to provide for the termination of the office of the Vice-Chancellor, who was holding that post, at the commencement of Act XI of 1966, as also for the appointment of a new Vice-Chancellor. It was, under those circumstances, that s. 13A was incorporated in the Act of 1959, by s. 5 of Act XI of 1966. They also referred
G to similar provisions, which were incorporated in the two enactments relating to the two other Universities in the State, *viz.*, the Andhra University and Sri Venkateswara University.

The respondents further pleaded that Act II of 1966 placed the Vice-Chancellor, who was already appointed and who was functioning prior to that Act, in the first category, as a class apart, from the
H Vice-Chancellors who were to be subsequently appointed and who were to function, after the passing of the said Amending Act, in the second category, both in the matter of the mode of appointment, as well as the term of appointment. The Vice-Chancellor

viz., the appellant, who was in office, on the date of the passing of Act XI of 1966, according to the respondents, therefore fell into a class all by himself and, as such, came under a third category; and the legislature thought fit to take into account the special features relating to him and, therefore, made separate provisions regarding the termination of his office. Therefore, a suitable provision was made, by enacting s. 13A, in respect of the existing Vice-Chancellor, who was treated as a class, by himself. A B

The respondents also claimed that the Legislature was entitled to treat the Vice-Chancellor, who was then in office, as a class by himself and make suitable provisions with regard to the termination of his office, and therefore a legislation made for that purpose, and on that basis, was constitutionally valid. The charge of hostility towards the appellant, or any attempt to effect discrimination, was stoutly denied by the respondents. The respondents, therefore, urged that the classification of the appellant, as a separate class, was proper and such a classification had a reasonable nexus, with the object of the amending legislation. C

The respondents further pleaded that the curtailment of the term of office of an existing Vice-Chancellor, by a statute, enacted by a competent Legislature, does not amount to 'removal' of the Vice-Chancellor for sufficient and proved cause. The respondents also urged that academic bodies or authorities like the Senate, Syndicate and the Academic Council are not similarly situated like the Vice-Chancellor, either in the matter of appointment or constitution, or in exercising functions under the statute; and therefore, the appellant, according to them, was not entitled to place any reliance on s. 33A, introduced by s. 7 of Act XI of 1966. For all these reasons, they urged that Art. 14 of the Constitution was not violated by the Legislature in enacting s. 13A. D E

Before we refer to the findings recorded by the learned Judges of the High Court, this will be a convenient stage to refer to the material provisions of the statutes, concerned. We have already mentioned that the appellant was functioning as the Vice-Chancellor of the Osmania University, even from 1957, *i.e.*, even before the Osmania University Act, 1959, was passed. We have also indicated that the administration of the University was then governed by a Charter promulgated in 1947. The Osmania University Act, 1959 (Act IX of 1959), (hereinafter called the Act), was passed in 1959 and published in the State Gazette on February 2, 1959. Section 3 of the Act provided that the University, established by the Revised Charter promulgated by H.E.H. the Nizam of Hyderabad, on December 8, 1947, and functioning at Hyderabad immediately before the commencement of the Act, be reconstituted and declared to be a University by the name of 'Osmania University'. The said section also provided that the University would be a F G H

A residential, teaching and affiliating University consisting of a Chancellor, a Pro-Chancellor, a Vice-Chancellor, a Senate, a Syndicate and an Academic Council.

Section 12(1) provided for the appointment of the Vice-Chancellor, by the Chancellor, from a panel of not less than three persons B selected by a committee, as constituted under sub-s. (2) thereof. But, if the Chancellor did not approve any of the persons so selected, he could call for a fresh panel from the committee. Sub-section (2) provided for the constitution of the committee.

Section 13 provided for the term of office, salary, allowances etc., of the Vice-Chancellor. Under sub-s. (1), the Vice-Chancellor C was to hold office for a term of 5 years and he was eligible for reappointment. There was a proviso to the effect that the Vice-Chancellor shall continue to hold office after the expiry of his term of appointment, for a period not exceeding six months, or until his successor is appointed and enters upon his office, whichever is earlier. Sub-s. (6) provided for the filling up of the vacancy, in the D post of the Vice-Chancellor, when it fell permanently vacant; and a Vice-Chancellor so appointed as per sub-ss. (1) and (2) of s. 12, was to hold office for a full term of 5 years.

Section 51(1) repealed the Osmania University Revised Charter, 1947; but sub-s. (2) provided that notwithstanding such repeal, the E person holding office immediately before the commencement of the Act, as Vice-Chancellor, shall, on such commencement, be the Vice-Chancellor of the University, and he was entitled to hold office until a Vice-Chancellor is appointed in accordance with the Act.

It will be noticed, by the above reference to the material provi- F sions of the Act, that there was no provision for removal of a Vice-Chancellor; and that the appointment of a Vice-Chancellor was to be by the Chancellor, as provided for in s. 12. The term of office of the Vice-Chancellor was 5 years and he was eligible for reappointment. The appellant, who was already a Vice-Chancellor, functioning under the Charter of 1947, was entitled to continue, and G did continue, as the Vice-Chancellor, by virtue of s. 51 of the Act. He was also, as already mentioned, originally appointed as Vice-Chancellor for a period of 5 years under the Act, in 1959.

The Act was amended in certain particulars by the Osmania University (Amendment) Act, 1966 (Act II of 1966) (hereinafter H called the First Amendment Act). The First Amendment Act received the assent of the Governor on January 29, 1966. Section 6 of the First Amendment Act, introduced s. 7A, which we set out :

"7A. *Instructions by the Government.*—The Government may, after consultation with the University, give to the University, instructions relating to matters of major educational policy such as pattern of University education, medium of instruction and establishment of post-graduate centres, to be followed by it. A

(2) In the exercise of its powers and performance of its functions under this Act, the University shall comply with the instructions issued under sub-section (1)." B

Similarly, s. 9 incorporated new sub-ss. (1) and (2) in s. 12 of the Act, as follows :

"12. (1) The Vice-Chancellor shall be appointed by the Chancellor. C

(2) The Vice-Chancellor shall not be removed from his office except by an order of the Chancellor passed on the ground of misbehaviour or incapacity and after due inquiry by such person who is or has been a Judge of a High Court or the Supreme Court as may be appointed by the Chancellor, in which the Vice-Chancellor shall have an opportunity of making his representation against such removal." D

Section 10, while effecting certain other amendments to s. 13. of the Act, incorporated a new sub-s. (1), as follows :

"13. (1) Subject to the provisions of sub-section (2) of section 12, the Vice-Chancellor shall hold office for a term of three years from the date of his appointment and shall be eligible for re-appointment to that office for another term of three years only; E

Provided that the Vice-Chancellor shall continue to hold office after the expiry of his term of appointment for a period not exceeding six months or until his successor is appointed and enters upon his office, whichever is earlier." F

It was this Amendment Act, when it was in the Bill stage, that appears to have been severely criticised by various authorities on the ground that the autonomy of the University was sought to be interfered with by the Government. In that connection, the appellant also appears to have made several statements criticising the provisions sought to be incorporated in the Act. It is also on record that counter-statements were made on behalf of the Government meeting these criticisms regarding the proposed amendments. They have been dealt with by the High Court rather elaborately; but, we do not propose to go into those matters, for the purpose of this appeal. G H

A By virtue of the amendments effected and referred to above, it will be seen that the term of office of the Vice-Chancellor has been reduced from 5 years to 3 years. The manner of appointment of the Vice-Chancellor has also been changed and a provision is contained for removal of the Vice-Chancellor from his office, but that can be done only in accordance with the provisions contained in B s. 12(2) of the Act. Section 7A gives power to the Government to give instructions to the University relating to matters of major educational policy; and it is made obligatory on the University to comply with such instructions issued by the Government.

As we have already stated, the appellant was again appointed as Vice-Chancellor for a period of 5 years on April 30, 1964; and he C was continuing in office when the First Amendment Act was passed. One of the claims that is made by the appellant, in these proceedings, is that he is entitled to the protection conferred by s. 12(2) of the Act referred to above. There does not appear to be any controversy that any appointment of a Vice-Chancellor was made, after the passing of the First Amendment Act .

D The Act was further amended by the Osmania University (Second Amendment) Act, 1966 (Act XI of 1966) (to be referred to as the Second Amendment Act). It received the assent of the Governor on May 16, 1966. Section 2 of the Second Amendment Act, omitted s. 7A of the Act. Section 5 of the Second Amendment Act, which introduced new s. 13A in the Act, and which provi- E sion is the subject of attack in these proceedings, is as follows :

> "13A. *Special provision as to the appointment of a new Vice-Chancellor.*—Notwithstanding anything in this Act, the person holding the office of the Vice-Chancellor immediately before the commencement of the Osmania University (Second Amendment) Act, 1966, shall continue F to hold that office only until a new Vice-Chancellor is appointed by the Chancellor under sub-section (1) of section 12 and enters upon his office; and such appointment shall be made within ninety days after such commencement. On the appointment of such new Vice-Chancellor and on his entering upon his office, the person holding the G office of the Vice-Chancellor immediately before such appointment shall cease to hold that office."

Again, s. 6 of the Second Amendment Act, incorporated s. 33A in the Act, which is as follows :

> "33A. *Special provision as to the reconstitution of the Senate, Syndicate, Academic Council amd Finance Committee.* Notwithstanding anything in this Act, the members of the Senate, the Syndicate, the Academic Council H and the Finance Committee constituted and functioning

before the commencement of the Osmania University (Amendment) Act, 1966, shall continue to be such members and function only until a new Senate, Syndicate, Academic Council or Finance Committee, as the case may be, is reconstituted under this Act. On the reconstitution of such new Senate, Syndicate, Academic Council or Finance Committee, the members of the Senate other than the life members thereof, the members of the Syndicate, Academic Council or Finance Committee, as the case may be, holding office immediately before such reconstitution, shall cease to hold that office."

Even according to the respondents, s. 13A was incorporated for the purpose of terminating the services of the appellant as Vice-Chancellor, so as to enable the Chancellor to make a fresh appointment of a Vice-Chancellor. We have referred to s. 33A of the Act, because the appellant's case was also to the effect that with regard to the Senate, Syndicate, Academic Council etc., there is no provision similar to s. 13A of the Act, though they are also similarly situated like him.

The findings of the learned Judges of the High Court may now be briefly summarised :

1. The Andhra Pradesh Legislature was competent to enact s. 5 of the Second Amendment Act. The said section does not contravene art. 19(1)(f) of the Constitution.
2. The appellant was holding the office of the Vice-Chancellor when the Act came into force and continued under s. 51(2) thereof as Vice-Chancellor until the Chancellor passed an order in 1959 appointing him once again under the Act.
3. Section 13(1), as introduced by the First Amendment Act, is not retrospective and the right of the appellant to continue as Vice-Chancellor for the full term of 5 years stood unaffected and the new s. 13(1) does not apply to him.
4. The new s. 12(2), as introduced by the First Amendment Act, is not applicable to the appellant.
5. Sections 12(2) and 13A of the Act, do not cover the same field. Section 12(2) provides for removal by way of punishment and its operation is on a different field from that of s. 13A where the cessation of office is due to a curtailment of the term. Section 12(2) applies only to the future Vice-Chancellors and s. 13A is solely applicable to the existing Vice-Chancellor, the appellant.

A Regarding the attack on s. 13A, on the basis of Art. 14 of the Constitution that there is an unreasonable discrimination, the learned Judges were of the view that the said section did not suffer from any such infirmity. The learned Judges held that the impugned legislation had resulted in classifying Vice-Chancellors under two categories, (a) the appellant, as the existing Vice-Chancellor, fall-
B ing under the first category; and (b) future Vice-Chancellor, to be appointed under the Act, who falls under the second category. According to the High Court, the object sought to be achieved by such classification, as could be seen from the objects and reasons of the Second Amendment Act, 1966, was to give effect to the reduced term of 3 years fixed under s. 13(1) of the Act after the First
C Amendment. The High Court further held that the classification adopted by s. 13A, of putting the appellant, as the existing Vice-Chancellor, in a class by himself, is founded on an intelligible differentia, which distinguishes the appellant from future Vice-Chancellors, and that this differentia has a rational relation to the object sought to be achieved by the Second Amendment Act. In this connection, the learned Judges also advert to the similar
D provisions enacted, at about the same time, in the Andhra University Act, 1925, and the Sri Venkateswara University Act, 1954.

The High Court is also of the view that the Legislature must have taken into account the fact that the appellant has already put in more than 6 years of service as Vice-Chancellor, for treating
E him as a class by himself, as distinct from future Vice-Chancellors, who are to be appointed and, as such, have not put in any service at all. The learned Judges have, no doubt, adverted to the fact that the appellant has got an eventful record of efficient service, full of recognition and appreciation, but the appellant cannot plead those circumstances when a competent legislature has passed a valid
F legislative measure, under which he has to lose his office.

Ultimately, on these findings, the High Court came to the conclusion that s. 5 of the Second Amendment Act, introducing s. 13A in the Act, is not vitiated by any infirmity, as alleged by the appellant, and, finally, dismissed the appellant's writ petition.

G The appellant has again raised, no doubt, most of the contentions that were taken before the High Court. But the main ground of attack that has been pressed before us, by learned counsel for the appellant, is the one based upon Art. 14 of the Constitution. The findings recorded, and the views expressed, by the High Court are sought to be sustained by the learned Additional Solicitor-General,
H appearing for the respondents. But, we do not think it necessary to go into the larger controversy that has been raised by the appellant, before the High Court, in the view that we take, that the appellant must succeed in respect of the attack levelled against the impugned

provision, based upon Art. 14 of the Constitution. As to whether the criticism, made by the appellant, about the proposals to amend the Act, was or was not responsible for the passing of the legislation in question, does not assume much of an importance; because, the simple question is whether the provision, s. 13A, as it now stands in the Act, is violative, in any manner of Art. 14 of the Constitution. If the answer is 'yes', it is needless to state that the provision will have to be struck down. Therefore, we are confining our attention only to the provisions of the Act and we will refer to any other circumstance that is brought to our notice only for the limited purpose of considering the grounds of attack based upon Art. 14 of the Constitution.

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According to Mr. Setalvad, the appellant is entitled to take advantage of the provisions of s. 12(2) of the Act. On the date of the passing of the First Amendment Act, the appellant was, admittedly, a Vice-Chancellor and he had been continuing as such. He cannot be removed from his office, except in accordance with the provisions of s. 12(2) of the Act. But, in view of s. 13A of the Act, introduced by the Second Amendment Act, the appellant is forced out of his office, within 90 days of the passing of the Second Amendment Act. The creation of two classes of Vice-Chancellors, *viz.*, of Vice-Chancellors appointed under the Act and the Vice-Chancellor who was in office at the commencement of the Second Amendment Act, is not on any rational basis. Persons appointed as Vice-Chancellors, constitute a group, and the impugned provision makes a differentiation between the person who is a Vice-Chancellor then and other persons who are to be appointed Vice-Chancellors thereafter, for which differentiation, there is absolutely no basis. Further, even if it can be stated that there is any basis for the said classification, nevertheless, there should be a nexus or connection between the basis of the classification and the object of the legislation, which again, is lacking in this case.

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Mr. Setalvad further urged that while the services of a Vice-Chancellor, appointed under the Act, could be terminated only in accordance with the provisions contained in s. 12(2) of the Act, the appellant's services could be terminated under s. 13A, without adopting the procedure laid down in s. 12(2) of the Act. There was also no provision in the Act, Mr. Setalvad pointed out, making s. 13(2) applicable to Vice-Chancellors to be appointed in future. Though the term of office for a Vice-Chancellor has been fixed under the Act, even after the amendments, as three years, and that may apply to all the Vice-Chancellors, so far as the appellant is concerned, his term has been reduced or restricted to 90 days under s. 13A of the Act.

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Mr. Setalvad again urges that even assuming that it is open to the Legislature, in an appropriate case, to make provisions applicable

A to only one individual or a group of individuals, nevertheless, it is well-established, by this Court, that the classification that is effected by the statute must be a classification founded on an intelligible differentia and that differentia must have a rational relation to the object sought to be achieved by the statute. Applying these two tests, learned counsel urges, that the impugned legislation must be B considered to be violative of Art. 14 of the Constitution.

The learned Additional Solicitor-General has urged that the term of office of the Vice-Chancellor has been reduced to three years by the First Amendment Act. The Legislature, in order to give effect to this provision and to enable fresh appointments to be C made under the Act, has enacted s. 13A. That section has, necessarily, to apply only to persons like the appellant who are holding office at the time when these provisions came into force. Such a provision, in the nature of things, cannot apply to Vice-Chancellors who are to be appointed in future under the Act. Therefore it is wrong to state that all Vice-Chancellors, irrespective of the manner or mode under which they are appointed, in present or in future, D fall under the same category. Further, the appellant has been a Vice-Chancellor for nearly 7 years. The legislature, the learned Solicitor points out, having regard to these circumstances, has chosen to treat the appellant, the Vice-Chancellor holding office on the date of the Second Amendment Act, as a class by himself and has differentiated him from persons to be appointed Vice-E Chancellor for the first time. Such a classification, is reasonable and it has got a rational relation to the object sought to be achieved by the Second Amendment Act, *viz.*, bringing about uniformity in the tenure of three years of office for all Vice-Chancellors. The learned Solicitor points out further that the appellant is not entitled to the benefit of s. 12(2) of the Act. The Legislature was compe-F tent to enact the measure in question and the object of the Legislature was to give effect to the amendment provisions as early as possible. He pointed out that similar provisions were also made in two other enactments at about the same time, *viz.*, in the Andhra University Act, 1925, and the Sri Venkateswara University Act, 1954. It may be that the Legislature could have adopted another method for replacing the present Vice-Chancellor, but that is a G matter of policy, which cannot be reviewed by the Courts, so long as the Legislature had the competence to enact the measure and the provisions, so enacted, do not suffer from any other legal infirmities.

We have given due consideration to the various contentions H placed before us by Mr. Setalvad, learned counsel for the appellant, and the learned Additional Solicitor-General, on behalf of the respondents; but we are not inclined to agree with the contentions of the learned Additional Solicitor-General.

The principles to be borne in mind, when a question arises under Art. 14 of the Constitution, have been laid down in several decisions, by this Court, on a number of occasions. In *Budhan Choudhry* v. *The State of Bihar*(1), Das J., speaking for the Court, said :

> "It is now well-established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question."

Therefore, it will be seen that in order to accept a classification as permissible and not hit by Art. 14, the measure in question will have to pass the two tests laid down in the above decision. The observations, extracted above, have been quoted by Das C. J., in *Ram Krishna Dalmia* v. *Shri Justice S. R. Tendolkar*(2). It is no doubt true, as pointed out by the learned Additional Solicitor-General, that a statute may direct its provisions against one individual person or thing, or against several individual persons or things. But, before such a provision can be accepted as valid, the Court must be satisfied that there is a reasonable basis of classification which appears on the face of the statute itself, or is deducible from the surrounding circumstances or matters of common knowledge. If no such reasonable basis of classification appears on the face of the statute, or is deducible from the surrounding circumstances, the law will have to be struck down as an instance of naked discrimination.

It should also be borne in mind that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon the party who attacks the same as unconstitutional, to show that there is a clear transgression of the constitutional principles; but, as observed by Das C.J., in *Ram Krishna Dalmia's* case(2), at p. 297,

> "while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried

(1) [1955] 1 S.C.R. 1045, 1049. (2) [1959] S.C.R 279, 296.

A to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation."

Having due regard to the principles referred to above, we now B proceed to consider as to whether the appellant has been able to establish that s. 5 of the Second Amendment Act, introducing s. 13A in the Act, is discriminatory and, as such, violative of Art. 14 of the Constitution.

We have already stated that the appellant was appointed, under the Act, for a further term of 5 years, as Vice-Chancellor, C on April 30, 1964, and he was continuing in office, as such, at the time when the two Amending Acts were passed; and, normally, he would be entitled to continue in that post for the full term, which will expire only at the end of April 1969. The First Amendment Act provided, in s. 12 of the Act, that the Vice-Chancellor is to be appointed by the Chancellor; but s. 12(2) specifically provided that D the Vice-Chancellor shall not be removed from his office except by an order of the Chancellor passed on the ground of misbehaviour or incapacity and, after due inquiry by such person who is, or has been, a Judge of a High Court or the Supreme Court, as may be appointed by the Chancellor. It was also provided that the Vice-Chancellor was to have an opportunity of making his representation against such removal. *Prima facie*, the provisions contained in E sub.-s (2) of s. 12, must also apply to the appellant, who did continue in office even after the passing of the First Amendment Act. No doubt the term of office of the Vice-Chancellor was fixed at 3 years under s. 13(1) of the Act. But no provisions were made in the First Amendment Act regarding the termination of the tenure of office of the Vice-Chancellor who was then holding that post.

F There can be no controversy that s. 13A, introduced by s. 5 of the Second Amendment Act, deals only with the appellant. In fact, the stand taken on behalf of the respondents in the counter-affidavit filed before the High Court, was to the effect that the Legislature had chosen to treat the Vice-Chancellor holding office at the time of the commencement of the Second Amendment Act, as a G class by himself and with a view to enable the Chancellor to make fresh appointments, s. 13A of the Act was enacted.

Therefore, it is clear that s. 13A applies only to the appellant. Though, no doubt, it has been stated, on behalf of the respondents, that similar provisions were incorporated, at about the same time, in two other Acts, relating to two other Universities, *viz.*, the H Andhra University and the Sri Venkateswara University, and though this circumstance has also been taken into account by the learned Judges of the High Court, in our opinion, those provisions

have no bearing in considering the attack levelled by the appellant on s. 13A of the Act. A

This is a clear case where the statute itself directs its provisions by enacting s. 13A, against one individual, *viz.*, the appellant; and before it can be sustained as valid, this Court must be satisfied that there is a reasonable basis for grouping the appellant as a class by himself and that such reasonable basis must appear either in the statute itself or must be deducible from other surrounding circumstances. According to learned counsel for the appellant, all Vice-Chancellors of the Osmania University come under one group and can be classified only as one unit and there is absolutely no justification for grouping the appellant under one class and the Vice-Chancellors to be appointed in future under a separate class. In any event, it is also urged that the said classification has no relation or nexus to the object of the enactment. B C

Our attention has been drawn to the Statement of Objects and Reasons to the Second Amendment Bill, the material part of which is as follows : D

> "The term of office of the Vice-Chancellor has been reduced to three years under section 13(1) of the Osmania University Act as amended by section 10 of the Osmania University (Amendment) Act, 1966.
>
> Section 13-A, proposed to be inserted by clause 5 of the Bill, enjoins that notwithstanding anything in the Act, the person holding the office of the Vice-Chancellor immediately before the commencement of the Osmania University (Second Amendment) Act, 1966 shall continue to hold that office only until a new Vice-Chancellor is appointed by the Chancellor under section 12(1) as amended and enters upon his office, and such appointment shall be made within ninety days after such commencement." E F

We are inclined to accept the contention of Mr. Setalvad, that there is no justification for the impugned legislation resulting in a classification of the Vice-Chancellors into two categories, *viz.*, the appellant as the then existing Vice-Chancellor and the future Vice-Chancellors to be appointed under the Act. G

In our view, the Vice-Chancellor, who is appointed under the Act, or the Vice-Chancellor who was holding that post on the date of the commencement of the Second Amendment Act, form one single group or class. Even assuming that the classification of these two types of persons as coming under two different groups can be made nevertheless, it is essential that such a classification must be founded on an intelligible differentia which distinguishes the appel- H

A lant from the Vice-Chancellor appointed under the Act. We are not able to find any such intelligible differentia on the basis of which the classification can be justified.

It is also essential that the classification or differentia effected by the statute must have a rational relation to the object sought to
B be achieved by the statute. We have gone through the Statement of Objects and Reasons of the Second Amendment Bill, which became law later, as well as the entire Act itself, as it now stands. In the Statement of Objects and Reasons for the Second Amendment Bill, extracted above, it is seen that except stating a fact that the term of office of the Vice-Chancellor has been reduced to 3 years under s. 13(1) and that s.13A was intended to be enacted, no other policy
C is indicated which will justify the differentiation. The term of office fixing the period of three years for the Vice-Chancellor, has been already effected by the First Amendment Act and, therefore, the differential principle adopted for terminating the services of the appellant by enacting s. 13A of the Act, cannot be considered to be justified. In other words, the differentia adopted in s. 13A and
D directed as against the appellant—and the appellant alone—cannot be considered to have a rational relation to the object sought to be achieved by the Second Amendment Act.

While a Vice-Chancellor appointed under s. 12 of the Act can be removed from office only by adopting the procedure under s. 12(2), the services of the appellant, who was also a Vice-
E Chancellor and similarly situated, is sought to be terminated by enacting s. 13A of the Act. We do not see any policy underlying the Act justifying this differential treatment accorded to the appellant. The term of office of the Vice-Chancellors has been no doubt reduced under the First Amendment Act and fixed for 3 years for all the Vice-Chancellors. But, so far as the appellant is concerned, by
F virtue of s. 13A of the Act, he can continue to hold that office only until a new Vice-Chancellor is appointed by the Chancellor, and that appointment is to be made within 90 days. While all other Vice-Chancellors, appointed under the Act, can continue to be in office for a period of three years, the appellant is literally forced out of his office on the expiry of 90 days from the date of commencement
G of the Second Amendment Act. There is also no provision in the statute providing for the termination of the services of the Vice-Chancellors, who are appointed under the Act, in the manner provided under s. 13A of the Act. By s. 13A, the appellant is even denied the benefits which may be available under the proviso to sub-s. (1) of s. 13 of the Act, which benefit is available to all other Vice-Chancellors.

H The appointment of the appellant in 1959 and, again in 1964, under s. 12(1) of the Act, as it stood prior to the two amendments, by the Chancellor, must have been, no doubt, from a panel of

names submitted by a committee constituted under s. 12(2). The appointment of a Vice-Chancellor after the passing of the First Amendment Act, is to be made exclusively by the Chancellor under s. 12(1), as the section now stands. That is a circumstance, relied on by the respondent, for differentiating the appellant as an existing Vice-Chancellor from a Vice-Chancellor to be appointed under the Act, as amended. Anotner circumstance relied on is that the appellalnt has been a Vice-Chancellor for 7 years. In our opinion, these are not such vital or crucial factors which will justify treating the appellant as a class by himself, because the powers and duties of a Vice-Chancellor, either under the Act, prior to the amendment, or under the Act, after amendment, continue to be the same. To conclude, the classification of the appellant, as a class by himself, is not founded on any intelligible differentia, which distinguishes him from other Vice-Chancellors and it has no rational relation to the object of the statute, and so s. 13A is hit by Art. 14.

The appellant has attacked s. 13A, as discriminatory, relying upon a different provision, made under s. 33A, in respect of the Senate, Syndicate, Academic Council and the Finance Committee. We have, however, not considered the question as to whether the appellant can be treated as falling under the same class, as the other authorities mentioned in s. 33A, as we have accepted the appellant's contention, based upon Art. 14, on other grounds.

For the above reasons, we accept the contentions of the learned counsel for the appellant, and hold that s. 5 of the Second Amendment Act (Act XI of 1966), introducing s. 13A in the Act, is discriminatory and violative of Art. 14 of the Constitution and, as such, has to be struck down as unconstitutional. The result is that the appeal is allowed, and the appellant will be entitled to his costs in the appeal, payable by the respondents, here and in the High Court.

R.K.P.S. *Appeal allowed.*

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