

UGC REGULATIONS IN THE INDIAN FEDERATION: ISSUES AND COMPLEXITIES

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Received: 07 April 2026 || **Revised:** 25 May 2026
Accepted: 22 June 2026 || **Published:** 31 July 2026

Abstract: Dwelling on K. C. Wheare's theoretical enunciation that India is a quasi-federation, this paper explores the division of power between the Union and the States and demonstrates that in the field of education, it is the Union Government that occupies a dominant position, imposing its policies on the States due to the application of repugnancy principle, given the inclusion of education in the Concurrent List of the Seventh Schedule of the Indian Constitution. One of the instruments of imposition of the Union Government on the States in the field of Higher Education has been the regulations adopted by the University Grants Commission from time to time. However, this results in confrontations between the Union Government and the States, especially those ruled by the opposition parties, thereby affecting the smooth functioning of the state-run universities.

Keywords: University Grants Commission, Indian Federalism, Centre-State Relations, Supreme Court of India

Introduction

Article 1 of the Constitution describes India as a 'Union of States,' implying that India is an integrated federation with the states having no right to secede. In the *Kesavananda Bharti* case of 1985, the Supreme Court enunciated the *Basic Structure Doctrine* of the Constitution, and federalism is one such

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structure. However, the Indian federation, according to K. C. Wheare (1953), one of the earliest scholars who took an interest in studying Indian federalism, is quasi-federal in nature due to the constitutional arrangement enabling the Union Government to intervene in the functioning of state governments, which consequently affects federalism.

The Seventh Schedule of the Indian Constitution divides subjects between the Union and the states. While the Union Government has an exclusive right over the subjects in the Union List, states have, save in certain conditions, exclusive jurisdiction over the subjects in the State List. On the subjects incorporated in the Concurrent List, both the Union Government and the states can exercise jurisdiction, but the former occupies a commanding position given the provisions of Article 254 of the Constitution. Article 254 incorporates the principle of repugnancy between the laws enacted by the Union Government and the State Government, providing that a law made by a state legislature shall be void to the extent that it is repugnant to the law made by parliament. The Union law prevails over a state law enacted on any of the subjects listed in the Concurrent List, in case of any conflict.

Education including technical, medical and university level education previously was placed in the State List subject to the provisions of entries 63, 64, 65 and 66.¹ Following the recommendation of the Swaran Singh Committee of the Congress Party, Education was included in the Concurrent List by the Constitution (Forty-second Amendment) Act, 1976 (Rangarajan, 2024) which became effective on January 3, 1977. The Morarji Desai government in 1978 unsuccessfully attempted to undo the amendment. Making Education a concurrent subject implies that the Union Government becomes the dominant partner in the field of Education. It is the Union Government that frames the national education policies and educational priorities. Education listed as a Concurrent subject ensures two things. First, national priorities are ensured. Second, cultural differences in a diverse country like India are maintained without losing sight of the need to bring some degree of uniformity. The practical importance of the Concurrent List (when adopted in any federation) lies in the fact that vesting the same type of power in two parallel agencies carries, within it, the seeds of a possible conflict.

In India, universities are of four categories: Central, State, Deemed-To-Be, and Private. Central Universities come under the legislative control of the Parliament and are maintained by the Union Government through the UGC. There are 56 such universities. While a few of the oldest universities in India belong to this category, 26 of them, were established or brought under the Union Government during the Congress-led United Progressive Alliance

(UPA) Government at the centre, which assumed office between 2004 and 2014. A large majority of universities are under the state governments, numbering 521 as of 2026. (University Grants Commission, n.d). Therefore, the ratio between Central and State universities is 1:9.30. The data seemingly shows that it is the state that dominates the university system in India. Besides, there are 152 Deemed-To-Be Universities (Ministry of Education, Government of India, n.d). A Deemed-to-be-University in India is a high-performing higher education institution granted academic status equivalent to a university. Awarded by the University Grants Commission, this distinct categorization allows institutions to operate with significant academic autonomy. A Deemed-To-Be University may be funded by the Union Government or may be under private management.

UGC Regulations

In 1956, the Parliament enacted the University Grants Commission Act (UGC Act). The objective of the Act is “to make provision for the co-ordination and determination of standards in Universities” (UGC Act, 1956). The UGC Act has four chapters and 28 sections. For the objective of this paper, only sub-sections (e) and (g) of Section 26 will be looked into. Under these provisions, the UGC has power to make regulations to define “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” (University Grants Commission Act, 1956) and to “regulating the maintenance of standards and the co-ordination of work or facilities in Universities” (University Grants Commission Act, 1956). Given the nature of the mandate entrusted to it, it is evident that the UGC has to perform the functions, including the formulation of regulations under the policy guidance and direction of the Union government. As such, the provisions of the UGC regulations are subject to the policy decisions of the Union government. The UGC regulations framed under the above-mentioned provisions of the UGC Act are in the form of delegated legislation. Such regulations are placed before each House of Parliament and are therefore part of the UGC Act (*Gambhirdan K Gadhvi vs. the State of Gujarat*, 2022).

Though the UGC Act became operational in 1956, it took the Commission more than two decades to frame and notify regulations to set the minimum qualifications and other measures to maintain standards of higher education in India. It was only after the transfer of Education from the State List to the Concurrent List that the first regulation was notified in 1983, known as the University Grants Commission (Qualification Required of a Person to be Appointed to the Teaching Staff of a University or Other Institutions

Affiliated to it), 1982 (hereafter the 1982 regulations). The first regulation was mainly concerning the qualification of the teaching staff appointed in universities and affiliated colleges. To replace the 1982 regulations, the UGC came up with the 1991 Regulations following the Fourth Central Pay Revision. The 1991 Regulations retained the minimum qualifications outlined in the 1982 Regulations but introduced the additional requirement, which was the necessity to qualify for the national eligibility test (NET), either conducted by the UGC or the Council of Scientific and Industrial Research (CSIR). Since then, the condition of clearing NET has been one of the essential qualifications for appointment in universities and colleges, though in subsequent regulations, exemption has been made for those who obtain a degree of Doctor of Philosophy (PhD). After the Fifth Pay Commission revision implementation with effect from 1996, the UGC notified the UGC regulations 2000, which were subsequently amended in 2002 and 2006. The 2000 Regulations, besides continuing with the minimum qualifications for appointments of teachers and other staff in universities and colleges, also had provisions for the constitution of a Selection Committee for the selection of teachers and vice-chancellors in universities and colleges.

Significant changes were brought by the UGC Regulations notified in June 2010 (hereafter, the 2010 Regulations). The Regulations were notified following the implementation of the Sixth Pay Revision with effect from 2016. Like the previous regulations, the 2010 Regulations have provisions setting the minimum qualifications for both direct recruitments and promotions, and the constitution of the selection committee for them. But the Regulations fundamentally deviated from the earlier practices in certain ways. Unlike in the past, under the 2010 regulations, the posts were re-designated as Assistant Professor, Associate Professor, and Professor in both universities and colleges. Another important change that the Regulations introduced was the objective criteria in appointment and promotion, with the introduction of the Academic Performance Indicators (APIs). The implementation of the API system was done, it appears, on a trial-and-error basis, as amendments to it were made in 2023 and 2016. The 2018 Regulations retained almost all the features of the 2010 Regulations, with a few changes, though the API system was further modified. One important point to be noted about the 2018 Regulations is the presence of certain provisions that contradict those of the relevant pay revision order, i.e., the Seventh Pay Revision. This contradiction relates to the granting of advance incentive increments to those who join with higher educational qualifications, such as Ph.D., M.Phil., or a master's degree in the respective and relevant fields of study. While the 2018 Regulations provide advance increments, the Pay Revision order maintains

that advance increments are already inbuilt in the pay structure in view of the fact that those possessing higher educational qualifications are provided with faster promotion opportunities.

In early 2025, the UGC came up with a Draft UGC (Minimum Qualifications for Appointment and Promotion of Teachers and Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulations, 2025 that seeks to bring significant changes in the methods of recruitment and promotion of teachers in universities and colleges across the country, in line with the objectives of the National Education Policy 2020. The API system was proposed to be done away with in favour of more subjective criteria, giving ample scope for the Selection Committee to exercise its subjective assessment. Further, the draft sought to dilute the rigorous requirements for the appointment of Vice-Chancellors, to enable non-academicians for such appointments. One far-reaching proposal that was made in the draft was the commanding position of the Union Government in the appointment of the Vice-Chancellor in a university, threatening the autonomous role of State Governments (University Grants Commission).

Since 2010, it has been witnessed that the UGC Regulations lack stability. Too frequent changes have been made in the qualifications for direct appointment and promotion. While change is significant, it should be gradual and progressive, thereby ensuring continuity and improvement. For example, the requirement for NET for appointment to the then post of Lecturer in undergraduate colleges was exempted in 2006 for those possessing M.Phil., but it was undone in 2009. Similarly, a Ph.D. was made a requisite qualification for appointment as an Assistant Professor in a university by the 2018 Regulation, only to be revoked by the amendment in 2023. Frequent reversal of decisions does not augur well for higher education as it throws confusion in the system, adversely affecting the youth aspiring to teaching as their career.

Applicability of UGC Regulations to the States

The UGC Regulations, notified from time to time, have provisions specifying the domains of their applicability. Like earlier regulations, the latest regulations of 2018 state that they apply to “*every University established or incorporated by or under a Central Act, Provincial Act or a State Act, every institution including a Constituent or an affiliated College recognized by the Commission, in consultation with the University concerned under Clause (i) of Section 2 of the University Grants Commission Act, 1956 and every Institution*

deemed to be a University under Section 3 of the said Act.” Though this reference is made from the 2018 Regulations, every past regulation contained a similar provision regarding its applicability. From this quoted provision, it is evident that the UGC Regulations apply to all the universities established either under the statute of the Union or any State Government, the deemed universities, constituent colleges of universities, or colleges affiliated to universities. However, confusion has been created by the provision of the periodic UGC Pay Revision document, which has a provision that the benefits of the scheme of pay revision may be extended to the teaching staff of universities, colleges, as well as other institutions of higher learning that are under the jurisdiction of the state government. For states adopting the UGC scheme of pay revision, central financial assistance would be provided, subject to certain conditions laid down by the UGC. One such condition is the adoption of the entire scheme of pay revision together with all other conditions as laid down in the UGC regulations and guidelines as a composite scheme. This indicates that the UGC regulations apply to the states if central assistance is sought and obtained to partially support the state governments in the implementation of the UGC scheme of pay revision.

The question of the applicability of the UGC Regulations to the states has reached the judiciary for adjudication in a number of cases. In this context, there has been a shift in the judicial pronouncement on the nature of the regulations from being directory to mandatory over the years. These judgments have far-reaching constitutional implications in Union-State relations. In *Kalyani Mathivanan vs. K. V. Keyaraj and Ors*, the Supreme Court in 2015 held that the UGC Regulations, though mandatory for universities and other higher educational institutions maintained by the UGC, were directory for those falling under the purview of the state legislature (*Kalyani Mathivanan vs. K V Keyaraj and Ors*, 2015). This ruling was made even when the Court made an observation on the principle of repugnancy of state legislation with central legislation on education, that the former would be inoperative to the extent of repugnancy. In subsequent judgments, the Supreme Court ruled that once state government institutions received central assistance, UGC regulations became mandatory. In *Professor (Dr) Sreejith P.S. vs. Dr. Rajasree M.S.* in 2022, the Supreme Court ruled that it was an indisputable fact that the UGC Regulations became part of the UGC Act, 1956, being a delegated legislation laid before both Houses of Parliament. The Supreme Court further reiterated the observation made in the case of *Kalyani Mathivanan* regarding the conflict between central legislation and state legislation (*Professor (Dr.) Sreejith P.S. vs. Dr. Rajasree M.S.*, 2022). It is observed:

In case of any conflict between the State legislation and the Central legislation, Central legislation shall prevail by applying the rule/principle of repugnancy as enunciated in Article 254 of the Constitution, as the subject “Education” is in the Concurrent List (List III) of the Seventh Schedule to the Constitution. Therefore, any appointment as a vice-chancellor contrary to the provisions of the UGC Regulations can be said to violate the statutory provisions, warranting a writ of quo warranto (Professor (Dr.) Sreejith P.S vs. Dr. Rajasree M.S., 2022).

UGC Regulations and State Universities and Colleges

The UGC Regulations are Union Government delegated legislation. While its implementation in the central universities and other institutions maintained by the Union Government may not be problematic, in the case of state universities and colleges, the implementation may not be a simple task. For its implementation in the state universities, the state government has to bring necessary amendments to the university statutes. However, judging from the matters handled by the judiciary, it is evident that many state governments fail to implement the regulations in *toto* in the state universities.

The appointments of a number of state university vice-chancellors have been contested legally. One such instance was the appointment of Kalyani Mathivanan in 2012 as the Vice-Chancellor of Madurai-Kamaraj University of Tamil Nadu. Her appointment was made in accordance with the provisions of the Madurai-Kamaraj University Act, 1965, which stood in contravention of the provisions of UGC Regulations, 2010. Though her appointment was set aside by the Madras High Court in 2014, it was upheld by the Supreme Court in 2015 on the ground that the UGC Regulations were only directory in nature as far as the states are concerned. While dealing with the case, another fact surfaced: the Government of Tamil Nadu failed to create a post of Professor in colleges as per the provisions of the regulations 2010 (Kalyani Mathivanan vs. K. V. Keyaraj and Ors 2015).

In the case of the appointment of the Vice-Chancellor of Sardar Patel University of Gujarat in 2019, it was evident that the UGC Regulations were not implemented. In place of the 2018 Regulations, the provision of the Sardar Patel University Act, 1955, was implemented in the selection of the vice-chancellor. It was found out by the High Court of Gujarat that the state government had not adopted the 2010 or 2018 Regulations. Contrary to the position taken in 2015 in the case of the vice-chancellor of Madurai-Kamaraj University, the Supreme Court ruled in 2022 that the appointment of the Sardar Patel University was null and void *ab initio* on the ground

that the Selection Committee for the selection of the vice-chancellor was not in conformity with the UGC regulations (*Gambhirdan K Gadhvi vs. the State of Gujarat*, 2022). A similar situation arose in West Bengal. In the re-appointment of the Vice-Chancellor of Calcutta University in 2021, the Supreme Court found that it was carried out in violation of the UGC regulations. Therefore, the ruling of the Calcutta High Court setting aside the re-appointment was upheld by the Supreme Court (*State of West Bengal vs. Anindya Sundar Das*, 2022). The appointment of the Vice-Chancellor of APJ Abdul Kalam Technological University, a state University of Kerala, was also declared null and void in 2022 as the appointment was made in violation of the provisions of the UGC Regulations (*Professor Dr. Sreejith P.S vs. Dr. Rajasree M.S.*, 2022). While these instances relate to the appointment of vice-chancellors in state universities, another relevant question is whether private universities ever comply with the UGC regulations in the appointment of vice-chancellors or whether such regulations are categorically applicable to such universities.

In the matter relating to the implementation of UGC Regulations in colleges, state governments have a significant role as they mostly come directly under their administrative control. In this context, there had been a contention that Principals in different colleges in Assam had been appointed without the requisite qualification (*Sentinel*, 2023). Further, the Assam Government deviated from the UGC Regulations in the assessment for the appointment of teachers in colleges (*Guwahati High Court*, 2022). The situation is not different in Meghalaya, where the state government simply ignored the qualifications and process of appointment and promotion of teachers in colleges, as well as other provisions that are important for improving the service conditions of teachers and non-teaching staff as laid down by the UGC Regulations (*Myrboh*, 2022). In Nagaland, while implementing the UGC Regulations for college teachers, the state government had not implemented the UGC Regulations 2018, having a provision for promotion of Associate Professor to Professor without a ratio capping, even as late as 2023 (*Mokochung Times*, 2023).

From the above discussion, it is evident that certain state governments and state universities either fail to adopt the UGC Regulations and accordingly amend their relevant state laws or do not implement them even after adoption. This ultimately affects the principle of rule of law and the ultimate governance of universities and colleges. The cases mentioned above may not reflect the whole picture of the problem. Other states may likewise deviate from implementing the UGC Regulations for their universities and colleges,

if not wholly, at least partially, as it happened in the case of Nagaland. The question that begs an answer regarding non-compliance of states to the provisions of the UGC Regulations lies in the ineffective enforcement by the UGC of the condition linking the implementation of the scheme of Pay Revision along with the Regulations as a composite scheme of eligibility for availing central assistance to support the states in their implementation of the pay revision. Non-compliance by states with the provisions of the regulations is now proposed to be dealt with seriously. According to the draft UGC Regulations 2025, higher educational institutions that fail to comply with UGC regulations would face action with huge ramifications. It was proposed that HEIs not conforming to UGC Regulations would not only face any of the following punitive actions, but also additional measures:

- (a) Debarred from participating in UGC schemes.
- (b) Debarred from offering degree programmes.
- (c) Debarred from offering ODL and online mode programmes.
- (d) Removed from the list of HEIs maintained under Sections 2(f) and 12B of the UGC Act 1956. (University Grants Commission, 2025)

This draft regulation was vehemently opposed by six opposition-ruled states - Andhra Pradesh, Tamil Nadu, Kerala, Karnataka, Himachal Pradesh, and Jharkhand. In a conclave convened by the Karnataka Education Minister, the above provision of the draft regulations is considered “*drastic, excessive, undemocratic, and requires serious reconsideration.*” (as cited in Scroll, 2025).

UGC Regulations, State Governors, and State Governments

The State Governor is the constitutional head of state. However, experiences validate the argument that the Governor is the agent of the Union government in those states ruled by the party(ies) that are in opposition at the centre. Governors often act at the behest of the political interests of the ruling party at the centre to the detriment of the opposition parties ruling at the state level. In recent times, the conflicts between the governors and the state government in Tamil Nadu and Kerala, centering around the UGC Regulations, were the highlight in the Union-State relations in India. After the Supreme Court’s ruling against the Vice-Chancellor of KTU, the Kerala Governor, Arif Mohammad Khan, issued an order requiring the vice chancellors of nine state universities to tender their resignation, contending that their appointments were not in accordance with the provisions of the UGC Regulations. Countering the effort of the Governor, the state government passed the University Laws (Amendment) Bill, 2022, replacing

the Governor as the Chancellor of 14 state universities. The Bill was reserved by the Governor for the consideration of the President of India, whose assent was ultimately declined. Similarly, the Tamil Nadu Legislative Assembly in 2022 passed a number of Bills, taking away the power of appointment of the vice chancellor of state universities from the Governor, and transferring the same to the state government. Governor R.N. Ravi failed to take any action on the Bills against which the state government preferred to take the matter to the Supreme Court. The Supreme Court in 2025 ruled that all the Bills pending with the Governor were deemed to be assented to by the state since the time they were presented before him. However, a new twist to the power struggle between the Governor and the State Government was added when the constitutionality of these laws was challenged in the High Court of Tamil Nadu by a worker of the Bharatiya Janata Party (BJP). One of the grounds for the challenge was the repugnancy to the UGC Regulations, which provide that the Chancellor is the authority to appoint the vice-chancellors of universities. In the instant case, the High Court allowed the petition, ruling that the amended legislation was *ultra vires*.

The above-mentioned cases of power struggle between the Governor and State Governments regarding UGC Regulations' provision of appointment of vice chancellors of state universities are a new dimension in Union-State relations. What triggers the conflict is the central government's push for the implementation of the National Education Policy (NEP) 2020 across the states. The states of Tamil Nadu and Kerala have been among the few states that have been opposing the NEP implementation either in its entirety or partially. The steps taken by the respective Governors of Tamil Nadu and Kerala suggest that the Union government attempts to push the implementation of the NEP through the appointment of the vice chancellors who ideologically align with the central government. The UGC Regulations position the central government in a dominant position vis-à-vis the state government in the appointment of the vice-chancellor, thereby affecting the autonomy of the state government. In spite of the fact that India is constitutionally designed as a Union Government-dominant federation, in a country as diverse as India, with each state having its own goals, opportunities, and challenges, it is important that the states enjoy autonomy in the field of education. It is the state government that finances state universities and colleges. Therefore, it is against the spirit of federalism to attempt to push through the policy of the Union Government through the use of the Governor's power to appoint the vice-chancellor, with scant disregard for the concerns and rights of the state governments.

Conclusion

The importance of setting national standards in higher education through UGC Regulations cannot be discounted. Leaving it to the states alone in a country as diverse as India brings disparity in quality. Wilful non-observance and violation of the regulations not only hamper quality but also leads to violations of the constitutional and legal rights of many in the college and university system and citizens aspiring to pursue academics as their profession. However, using such regulations as a tool to surreptitiously further the political ideology of the ruling dispensation at the centre, across the country, undermining the autonomy of the states, is equally disturbing. Rigid regimentation overlooking regional diversities and realities in a multicultural and diverse country like India is ill-conceived and may be counter-productive in the long run. No two states are similar in educational realities, challenges, and aspirations, and recognizing this fact is imperative for proper educational governance in a federal setup. Undoubtedly, no federation can function without friction. However, permitting conflict to reach the point of stalemate to the extent of continually stalling the appointment of the heads of universities for political instead of educational considerations should be best avoided. The significance of Cooperative Federalism, assuring autonomy of the states while maintaining measures of national standard setting, requires realization by both Union and State Governments.

Note

Entry 63 of the Union List relates to Benares Hindu University, Aligarh Muslim University, Delhi University, University of Hyderabad, and other higher educational institutions of national importance as declared by the law of the Parliament. Entry 64 relates to the scientific and technical institutions of national importance financed wholly or partly by the Union Government. Entry 65 deals with institutions relating to training, whether professional, vocational, or technical, institutions that relate to special studies or research, and institutions relating to forensic science. Entry 66 provides for standard setting in higher educational institutions.

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