CHAPTER – VII

GOVERNOR AS CHANCELLOR OF THE UNIVERSITY

The practice of the Governors heading the University of a State in India as Chancellor is a British legacy. The power, pomp and paraphernalia associated with the Governors of British India lent credence to the post of the Chancellor of the universities.

His role as a Chancellor of universities, however, has not received the attention it deserves at the hands of researchers. This has been partly due to the fact that the ‘university affairs’ did not constitute as important a ‘stuff of politics’ twenty years ago as they do today. Partly also, the demand for higher education was not very pressing and wide-spread. But due to the change in the scenario, the role of the Governor as constitutional head of the State has been a subject of animated discussion for the last few years, particularly since 1967. The Governor’s position as ex-officio Chancellor has been under fire in several States of India. The conflicts between Governor-Chancellor and the State government have assumed greater proportion in recent years.

Historical Background :

For the first time, three universities were opened in India in the year 1857 under which the visitorial powers were vested in the
Governors as the Chancellor of the universities. Under this system the British Government had enough control over the activities of the universities and the nature of this control was of "a vetoing power" but the British Government rarely exercised this power in the affairs of the universities.

The practice of Governors becoming the Chancellor of the universities, during the British period, was developed with the intention to ensure that the university education was in conformity with the government's policy and that the university finance was under the supervision and control of the Provincial Government concerned. The governmental control was meant only as "a assurance that the money is well and properly spent". But even though, the Provincial Government, the Chancellor as well as the Vice-Chancellor were keenly interested in preserving the autonomy of the university and they kept the university affairs above the politics of the province.

After the independence of India the founding fathers of the Indian Constitution did hardly devote their time in discussing the role of Governor as Chancellor of a university nor they did try to incorporate any provisions in the present Constitution for governing the

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1 These three universities were opened in each presidency of Calcutta, Bombay and Madras.
Indian universities, perhaps, presuming that the traditional convention of having the Governor as a Chancellor of the university would be observed by the successive generation of the country.

A careful study of the Constituent Assembly apparently reveals that some of the founding fathers were interested in restoring the convention and autonomy of the Indian universities. The question of Governor as a Chancellor of the university formally came into light when the mode of the appointment of the Governor as the head of the State was being discussed in the Constituent Assembly. Alladi Krishnaswami Ayyar, one of the architects of the Indian Constitution, observed that the Governor appointed by or under the panel system would not able to select a fair and impartial Vice-Chancellor of a university.\(^5\) Similarly, G. Durga Bai also held that an elected Governor or the Governor appointed under the panel-system or under proportional system would create a lot of trouble to the Vice-Chancellor of a university.\(^6\)

After independence, educationists and educational planners were in broad agreement with retaining the office of the Governor-Chancellor, though they regarded the university autonomy as the first article of faith and the most essential principle of higher education. This was done on the one hand to ensure continued support of the State for higher education and, on the other, to keep the university education...

\(^5\) Constituent Assembly Debates, Vol. 8, p. 432.
\(^6\) Ibid., p. 450.
free from political pressures and bureaucratic control of the government. This ‘depoliticisation’ was intended to promote academic freedom and healthy growth of university. Consequently, this became the recognized pattern of university administration all over the country.

**Autonomy:**

The autonomy of the university means that the university does not function as another department of the government. The university does not report to the government its daily deliberation as other wings of the government do. But all its autonomous powers are derived from the University Act which is enacted by the State Legislature. The composition and colour of the various bodies of the university like the Syndicate, the Senate and the Academic Council are decided by the Legislature. Once these bodies are defined by the Legislature, the university functions independently without the government’s direct control or direction.

In conforming autonomy to the universities, the popularly elected government formulates its educational policy and through the university implements it. The various university bodies like the Syndicate, the Senate, the Academic Council, etc., are there to uphold the autonomy of the university, but they have to act and function under the framework of the University Act, which in turn is formulated by the elected

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Legislature. The success or failure of the university, thus, rests with the vision, dynamism and drive of the elected government.  

Powers and Functions:

The powers and functions of the Chancellor in the university are more *de jure* than *de facto*. Under the existing conventions, the Chancellor-Governor derives his power from every University Act passed by the State Legislature. The State Legislature is well within its right either to increase or decrease the powers of the Chancellor. His powers as well as functions under the University Act vary from university to university.

Section 12(1) of the Karnataka State Universities Act (2001) lays down that the Governor shall by virtue of his office, be the Chancellor of the university. He shall be the head of the university and shall when present, preside over at any convocation of the university [Section 12(2)]. An honorary degree can be conferred only if the proposal is confirmed by the Chancellor [Section 69(1)]. These functions belong to the Chancellor as the ceremonial head of the university.

The Chancellor is empowered to appoint Vice-Chancellor. The process of appointment varies. According to Section 14(2) of the Karnataka State Universities Act (2001), the State government constitutes a Search Committee consisting of four persons of whom...

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one is nominated by the Chancellor, one by University Grants Commission, one by the State government and one by the Syndicate of the university. The Search Committee submits to the State government a panel of three persons mostly eminent academicians to forward the same to the Chancellor. Accordingly, the Chancellor keeping in view merit, equity and social justice and with concurrence of the State government, appoints one person from the panel as the Vice-Chancellor [Section 14(4)]. The Section empowered the Chancellor, with the concurrence of the State government, call for a second panel if he considers it necessary and the Search Committee accordingly submits a second panel which shall be final.

If in the opinion of the Chancellor, the Vice-Chancellor wilfully omits or refuses to carry out the order of the Chancellor or abuses the powers vested in him and on the advice tendered by the State government, the Chancellor may, after making such enquiry as he deems proper, by order removes the Vice-Chancellor [Section 14(7)(8)]. He also has power to make arrangement during the temporary absence of the Vice-Chancellor [Section 16(1)].

Section 28(e) empowered the Chancellor to nominate two members to the Syndicate from among eminent educationists, or persons from Commerce, Banking, Industry or other professions. He may also by order direct to hold the meetings to discuss such terms of reference as may be specified by him and the Vice-Chancellor shall comply with such direction [Section 28(3)]. In the Act, however, there
is nothing to suggest that the Chancellor cannot nominate persons in his own discretion. There is a feeling in the university circles that the Chancellor should make nominations on the advice of the Vice-Chancellors because it is the latter who is ultimately responsible for the good governance of the university.

According to Section 41(5), every statute passed by the Syndicate shall be transmitted to the State government for submission to the Chancellor for assent with its specific recommendations. The Chancellor may within two months of the date of receipt of the draft statute, assent or withhold his assent or refer it to the Syndicate for further consideration [Section 41(6)]. A statute passed by the Syndicate shall not be given effect to until it is assented by the Chancellor [Section 41(7)].

According to Section 43(4), all ordinances made by the Syndicate shall be submitted to the Chancellor for his approval. The Chancellor may, within four weeks of the receipt of the ordinance, by order, direct that, the operation of any ordinance be suspended and shall as soon as possible inform the Syndicate of his objection to it. He may after receiving the comments of the Syndicate either withdraw the order of suspension or disallow the ordinance. His decision shall be final. However, an ordinance, involving expenditure from the consolidated fund of the State, the Chancellor shall consult the State government before according his approval.
According to Section 44(2), all regulations passed by the Academic Council shall be sent to the State Government for submission to the Chancellor for his approval. The Chancellor within one month of the date of receipt either approves them or refers them back to the Academic Council for further consideration. All regulations shall come into force on the date of their approval by the Chancellor or on such other date as the Chancellor may direct [Section 44(3)]. These powers are vested in him so that he can ensure that the university bodies function within the four walls of the Act and do not entail unnecessarily financial commitments.

According to Section 71(1) the Chancellor shall once in five years constitute a Commission to review the working of the university and make recommendations. The Chancellor on the recommendation of the State government appoints the Chairman of the Commission. The Chancellor may, in consultation with the State government, take such action on the recommendations of the Commission as he deems fit [Section (2)(4)(5)].

The actual exercise of these powers, however, has depended largely upon the amount of interest evinced by the individual Chancellor in the affairs of the university.

**Conflict Over Appointment of Vice-Chancellor:**

There is no uniform pattern followed by the Chancellor in the appointment of the Vice-Chancellors of the university. They have, by
and large acted as constitutional head and have, therefore, exercised this power on the advice of the Government. But instances are not wanting in which the Chancellors have not only acted in their own discretion but have also ignored the advice of the government. The pertinent question is, has a Governor acting as ex-officio Chancellor the right to exercise his discretion to appoint the Vice-Chancellor?

Since independence, there have been instances of Governors and government getting involved in controversies over the appointment of Vice-Chancellors. For instance, R.R.Diwakar, Governor-Chancellor of Bihar, appointed Dhukhan Ram, as Vice-Chancellor of Bihar University without mentioning the matter either to the Chief Minister or Education Minister. On the other hand, the same Governor appointed S.N.Sahay and V.K.N. Menon as Vice-Chancellors on the advice of the government.

Zakir Hussain, an outstanding educationist himself, acted as a truly constitutional Governor. As a former university man, he was always jealous of university autonomy. Therefore, when he was convinced that the government was out to interfere with it by requesting him to refuse extension of another term to Balbhadra Prasad as the Vice-Chancellor for the Patna University, he refused to oblige. However, when he found that the government was determined to impose strict control over the university, he seemed to have veered round the point that he should be guided in exercise of this power by the advice of the Chief Minister, even though this was not a part of the
university law. Nityanand Kanungo, Governor of Bihar, in his first few months acted like a truly constitutional head partly to offset the impression, which had been created by the United Front that as a former Congress man he would obstruct the smooth working of the non-Congress coalition government and partly, to establish satisfactory working relationship between himself and government. Therefore, he made first few appointments on the advice of the government. But coalition governments tended to be unstable and ineffective and were marked by inner contradictions and bickerings. Consequently, the Chancellor came to have a lot of elbow-room in the appointment of Vice-Chancellors. Besides, some of the appointments were made when there was no popular ministry in the Bihar State following the imposition of the President rule and then the Governor himself exercised the full power of the government.

S.S. Ansari, the Governor of Orissa, appointed Choudhari Nismanand Nandu as Vice-Chancellor ignoring the advice of the Chief Minister of Orissa, Biswanath Das in 1971. Jothi Venkatachalam, Governor of Kerala, appointed A.V. Verghese as Vice-Chancellor of Kerala University without the consent of the Chief Minister of Kerala in 1981.

9 Haridwar, Rai, op. cit., p. 127.
10 Ibid., p. 129.
In West Bengal, the simmering feud erupted into open war with the Left Front government decided to boycott all functions attended by the Governor A.P. Sharma. In the appointment of Vice-Chancellors for the Calcutta and Barswan universities, the Governor went against the recommendation of the government. Jyoti Basu, the then Chief Minister of West Bengal, who met the Prime Minister in Delhi on June 12, 1984 to discuss other problems, complained to Late Prime Minister Indira Gandhi that "the Governor seems to have adopted an attitude of confrontation with us".

In accordance with the Calcutta University Act of 1979, the panel of three names was submitted to the Governor and ex-officio Chancellor of the State Universities. The Act stipulates that the Governor-Chancellor can appoint the Vice-Chancellor by ticking any one of the names in the panel, in consultation with the Minister for Education. The Education Minister, Shambu Charan Ghosh, advised the Governor that Romen Poddar, the last incumbent, be retained in office. By disregarding the advice, the Governor chose Santosh Bhattacharya, the man who had notched the highest number of votes in the Senate. By justifying his action the Governor said, "when making the appointment, I went by number of votes polled and selected the one

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13 Choudhury, P.R., Let Front 'Protest', Link, July 22, 1984, p. 27.
who had secured the highest number. What is wrong with that?" Further, he alleged that, "Indeed it was the Left Front which had no business whatever to interfere in the affairs of the university. They are autonomous bodies outside the ambit of the Front’s jurisdiction. As ex-officio Chancellor of the university he had followed the legal procedure to a nicety." 

The Governor may be technically right, the Marxists do not agree. They argue that mere number do not matter. And they do have some precedents to go by; in 1954, Jnan Chandra Ghosh was appointed Vice-Chancellor though got two votes less than his competitor, the eminent scientist Satyendranath Bose. Similarly, in 1955, after Ghosh’s death, Nirmal Kumar Siddhanta was appointed in his place despite having secured fewer votes than Sisirkumar Mitra.

To prevent such an impasse, the Left Front government of West Bengal tried to bring an amendment to the Calcutta University Act to circumscribe the Chancellor’s power in respect of appointment of the Vice-Chancellor. The Governor, after waiting a month without giving his assent, did unusual thing in sending the Bill to the Central government for its opinion. This move was assailed by Left Front government as most undemocratic, unprecedented, authoritarian and showing utter disrespect for State Legislature. But the Governor

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15 Choudhury, P.R., op. cit., p. 28.
17 Thandavan, R., op. cit., p. 78.
claimed that he did right in sending it to the President. Especially in view of the comprehensive Bill on education the Central government was soon planning to introduce. He denied indulging in petty politicking, and censured the Left Front government for injecting politics in university affairs.18

Chitta Basu (Forward Block) introduced a constitutional Amendment Bill in the Lok Sabha on March 9, 1984, seeking to restrict the discretionary powers of the Governor to withhold his assent to Bills passed by the Legislature. In such an atmosphere, the Governor A.P. Sharma had to resign his post.

On the face of it, the action of the Governor may be well within his constitutional privilege. But he certainly broke the convention, and his action sparked off a fresh controversy in the highly political academic circles of the university. Ramen Poddar was, significantly, the Marxist favourable in the Vice-Chancellorship stakes. The Governor's move in endorsing the Congress (I) Janata Party backed candidate instead, hardly did anything for his popularity either with the State government or the Marxist dominated University of Calcutta.

In the case of Burdwan university, the Governor for no valid reason brushed aside the candidate recommended by the State government, that candidate has an impressive academic background and

18 Link, July 22, 1984, p. 27.
a good record as formerly Vice-Chancellor of another university, and he chose one candidate hardly bear comparison.

Tamil Nadu:

It was for the first time that a controversy over the appointment of a Vice-Chancellor came to the open in Tamil Nadu which was under the AIADMK rule. Governor S.L.Khurana, in his capacity as Chancellor, announced the appointment of S. Krishnaswamy, as Vice-Chancellor of Madurai Kamraj University much against the wishes of the government. The Education Minister C. Aranganayakam reacted sharply. According to him, the government had advised the Governor to appoint C.A.Perumal. The Minister further said that the practice so far had been that the Governor consulted the Chief Minister before making the appointments and in this case the Chief Minister was not consulted. He further maintained that the Governor must always be guided by the advice of the Chief Minister.

But the Governor maintained that his decision was final and the procedure followed in this case was exactly the same as in the past. But the Education Minister asserted that it was “wrong and reminded that in all the previous cases, the Governor made the appointment only after consulting the Chief Minister and with his concurrence. However, in the present case he had not done so.” Further, the Education

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20 Indian Express, October 4, 1985.
21 The Hindu, October 5, 1985.
Minister disclosed that a few years ago when there was a difference of opinion between the government and the Governor Prabhudas Patwari on the choice of the Vice-Chancellor of Madras University, the then President N. Sanjiv Reddy, who happened to be in Madras, at that time, asked the Governor to go by the advice of the Chief Minister. He further pointed that the Governor's action which defies the Chief Minister's advice in the appointment of Vice-Chancellor amounts to curtailing the State's right. When the issue was raging and confrontation seemed imminent, the Tamil Nadu government made a complete somersault, abruptly accepting the Governor's appointment "after careful consideration" and held "the appointment as valid and on merit".

Andhra Pradesh:

A peculiar situation surfaced in Andhra Pradesh where Telugu Desam was in power. Governor Ram Lal in the appointment of Vice-Chancellor to Sri Venkateswara University, did not heed the recommendation of the then Chief Minister, Late N.T.Rama Rao. The situation had developed into such a confusion and chaos that there were two Vice-Chancellors and two Registrars for one university at the same time. The matter was finally taken to the Andhra Pradesh High Court. The two judges gave different opinions on the right of the Governor-

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22 Ibid.
23 Thandavan, R., op. cit., p. 80.
24 Indian Express, October 5, 1985.
Chancellor. The matter was referred to a third judge who upheld the Governor’s prerogative to appoint a Vice-Chancellor.25

Two Schools of Thought:

The power of appointment of the Chancellor has been a subject of controversy. There are two schools of thought on this point. The one school, namely, that of constitutional purist’s contends that the Governor is a constitutional head of the State and therefore, in his capacity as Chancellor he should be guided by the advice of his Council of Ministers in making appointment of Vice-Chancellors. It is argued that the ministers are likely to know much about the affairs of the State than the Governor who usually comes from outside the State. In any case, the Council of Ministers will be held responsible for the doings of the Chancellor and also for the consequences flowing from them. The Chancellor according to this school has to be a figure head in respect of the administration of the university, in the same manner as he is the ceremonial head in so far as the administration of the State is concerned. This point of view is in complete accord with the constitutional theory and is intended to ensure that the Governor as Chancellor is not dragged into unseemly politics nor is there a continuous tug of war between him and his ministers in regard to the university matters.

The Chief Minister of Bombay once held that “a Chancellor cannot be Chancellor unless he is the Governor and a Governor is bound to be guided by the advice of his ministers”.26 The Chief Minister of Orissa, Biswanath Das, while explaining the Governor’s position in the university affairs, was of the view that “he had the right to advise Chancellor because of the latter’s position only in his gubernatorial capacity”.27 The Governor is virtually an agent of the Centre, and any of his actions contrary to the State government’s advice will be viewed as a conflict between the Centre and the State. For the smooth functioning of the institution and also in the interest of better Centre-State relations, Governor should, as a rule, adhere to the advice of the Chief Minister.28 Moreover, a university is run on the State funds and the accountability for university affairs rests not with the Governor-Chancellor, but with the government which has to face criticism in the Legislature as well as by the public, and it follows ipso facto that the State government should have a say in the appointment of the Vice-Chancellor.29

But another school of thought which represents academicians and autonomous of the university, is of the view that the Chancellor should act according to the provisions of the University Act and if necessary.

27 The Times of India, July 10, 1971.
28 Jyothi Basu, Chief Minister of West Bengal said, “The Governor-Chancellor cannot run the university if he does not co-operate with the government, in connection with appointment of Pro-Vice-Chancellor of Calcutta University,” and added “Let us see what happens in the university”. The Hindu, October 7, 1985.
29 The Hindu, October 13, 1985.
he should act in his discretion for the fair administration of a university.

Govind Narain, former Governor of Kerala and Karnataka is of the view that "the functions of a Governor as Chancellor are not part of his constitutional functions as laid down in the Constitution. His functions as a Chancellor are governed by the enactment of the State government. This distinction has to be borne in mind because when the Governor functions under the provisions of the Constitution, he has to act in accordance with the advice of his Council of Ministers except where the Constitution itself provides that he shall act in his discretion: but when he acts in accordance with the enactment of the State, the statutory functions not governed by this provision of the Constitution."

In the case of appointment of the Vice-Chancellor, he agrees that the Chief Minister or his Education Minister claims the right to be considered and have their advice followed, but he maintained that such a right does not exist, the Constitution does not bind the Governor, as Chancellor, in his choice of a Vice-Chancellor.

A.J. Kidwai, former Vice-Chancellor of Jamia Millia Islamia. Delhi, while answering a question said, "I would prefer to insulate Vice-Chancellor's appointment from politics". Explaining his viewpoint, he said, "day by day politicians are getting more involved in
academic affairs. Chief Ministers are more partisans in educational matters than Governors. But the very office of a Governor does not allow him to be partisan. Therefore, I would prefer a Governor’s choice over a Chief Ministers’ choice”.

Further, he pointed out that now Governors were also acting in a partisan way. “If a Governor plays politics, he will be abusing his office. But if a Chief Minister will indulge in politics, it will be his job. Therefore, I think a Governor is a safer bet as far as the appointment of a Vice-Chancellor is concerned.”

It is a pre-conceived notion that all Governors will always act apolitical. It is equally not conceivable that the Chief Ministers and Council of Ministers who are elected on whom the majority of the people have reposed their faith to run the affairs of the State should be excluded from administering the university which has to function as a real instrument of socio-economic change. If it is feared that the Chief Minister may interfere in the affairs of a university, a Chancellor also can do the same. Moreover, it is incomprehensible that the autonomy of a university can be better maintained by the Chancellor alone. What is the guarantee that the Chancellor will not interfere in the university administration? The shameful extent to which Kona Prabhakar Rao misused his office of Governor-Chancellor in the

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33 Thandavan, R., *op. cit.*, p. 83.
functioning of Bombay and Pune universities is one of the many instances of distortion of academic life by gubernatorial hawks.

Marks Scandal:

The controversy over the Governor in the university affairs started after the Bombay High Court passed adverse remarks against the former Chief Minister Shivaji Rao Patil Nilangekar, in what has come to be known as the M.D. marks scandal.

In his petition, Gosavi alleged that M.Y. Rawal, the Chief Examiner, had deliberately altered the grades to favour the Chief Minister's daughter. Inquiries he had made, Gosavi said, showed that the Chief Minister had personally contacted Rawal on telephone and had asked him to help his daughter, who had more than once attempted, but failed the M.D. examination.34

The whole sordid marks scandal drama began when the Governor of Maharashtra, Kona Prabhakar Rao, as Chancellor of the Bombay University sought to change the advocate appearing for the university in the marks scandal case involving Chandrakala Dawale, daughter of the Chief Minister, Shivajirao Patil Nilangekar. And the Governor Chancellor also sought to change the affidavit filed by the university to the High Court.

34 The Illustrated Weekly of India, March 23, 1986.
In an unprecedented move, the Governor in his capacity of Chancellor, had summoned the Registrar G.M.Rajarshi, side stepping the Vice-Chancellor, M.S.Gore, and asked him to change university's legal counsel, S.Radhakrishnan. The Governor is also alleged to have called Advocate General, Arvind Sawant for consultation in the sordid marks scandal.

In a memorandum, submitted by the BJP to the former President Zail Singh, accused the Governor for having misused his authority as a Chancellor to try to hush up the case. The Vice-Chancellor of the Bombay University had to resign in protest against his unbecoming conduct. It held the Governor responsible for pressurising the university Registrar to change the affidavit submitted on behalf of the university to the Court. The Governor was also accused of interfering in the affairs of the university and thus, violating its autonomy. Further, he was accused of forcing the Vice-Chancellor to bring an out-of-court settlement when the matter had already gone to Court.\(^{35}\)

The real countdown for his ouster began on March 20, 1986 when the Pune University Senate censured the Governor. Then came the final blow when the Bombay University Senate followed suit in censuring the Chancellor. On March 24, 1986, the normally toothless body adjourned for 15 minutes to “express its grave concern over the increasing interference of the Maharashtra government and the

\(^{35}\) The Times of India, March 14, 1986.
Chancellor of the university in its functioning, eroding the autonomy and credibility of this great institution. It is unique in the history of Indian universities that the governing bodies like the Senates of Bombay and Pune could not tolerate the interference of the Governor and passed resolutions censuring the Governor, which forced the Governor to resign.

As a Chancellor, it was his duty to keep dirty politics out of the university. But he did little to stem the tide of filth sweeping it. By all standards, his role in this affair has been extremely dubious. If he knew what was happening, it was his duty to inform the Vice-Chancellor and make joint effort to clean up the mess. Instead, he tried to hush up the matter and pressurised the university, which forced Gore to resign.

The powers and functions of the Governor-Chancellor are derived from each University Act, which is enacted by the State Legislature. The State Legislatures are well within their jurisdiction to change, or modify the University Act, as done in the cases of Calcutta University Act, Karnataka University Act 2001, which contemplates to circumscribe the Chancellor’s powers or the Maharashtra University Act of 1984, which sought to make the Governor-Chancellor outright monarch of the universities. It is obvious that the vague guidelines of the Chancellor’s powers often raise conflicts between the Governor and

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36 The Week, April 6-12, 1986.
the Chief Minister, particularly when there are different parties at the Centre and States, and these conflicts often assume political overtones. These conflicts may sometimes lead to a personality clash between the Governor and the Chief Minister, which is not conducive to the smooth functioning of the State machinery, or to the healthy academic atmosphere of the universities.

A Chancellor is by virtue of being a Governor. When the Governor is to follow the advice of his Council of Ministers, Chancellor cannot act independently. It should be made explicitly clear that the discretionary power of a Governor cannot be extended to the Chancellor also, which is neither in the University Act nor in the Constitution.