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STUDENT BAR ASSOCIATION

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Date: 22 September 2019

EXECUTIVE SUMMARY

FOUR-MEMBER COMMITTEE REPORT

The Four-Member Committee, constituted on student demands, came to an unequivocal conclusion that:

I. On the issue of conflict of interest, requiring the recusal of the Registrar in the appointment process for the next Vice-Chancellor

1. The Registrar, in his *ex-officio* capacity, is the Secretary to the Executive Council (“**EC**”), which has the power to select the new Vice Chancellor (“**VC**”). However, the Registrar himself had applied for the post of the VC. This gave rise to a situation of conflict of interest, as admitted by the Registrar himself.
2. A High-Level Committee (“**HLC**”) comprising Prof. M.P. Singh (Chairman), Attorney-General Mr. K.K. Venugopal and Sr. Adv. Mr. Arvind Datar, was constituted under the NLSIU Regulations, to shortlist and recommend the candidates for the position of the next VC.
3. The Registrar disclosed his conflict of interest to the HLC, which was then referred by the HLC to the NLSIU Administration. Even though the former

VC 'apparently' permitted the Registrar to continue in his position (*undocumented*), the conflict of interest still continues to persist.

4. On the demand of the student body for the Registrar's recusal from being involved in the appointment process, he sent his intent to recuse to the VC Full Additional Charge (FAC) Prof. M.K. Ramesh. This was not accepted by the VC (FAC) as he found himself lacking the *locus* to accept the same, being in a transitional position. However, it is the finding of the four-member committee that it *should* have been accepted because:
 - i. A recusal is a temporary measure concerning only issues related to the appointment of the new VC. This would mean that he would neither resign from his post as a Registrar, nor recuse himself from his other duties. Thus, the VC (FAC), even in his transitional position, *was* within his powers to allow for the recusal of the Registrar from the new VC's appointment process;
 - ii. In any case, a recusal is an ethical response to a situation and should not be subject to any approval by a higher authority.

II. On the issue of delay in the appointment of the new VC

1. On 6 July 2019, the EC empowered a five-member sub-committee, chaired by Hon'ble Mr. Justice S.A. Bobde and having Hon'ble Mr. Justice M.M. Shantanagoudar as a member, to give its *recommendations including the next procedural steps to be followed for the appointment of the VC*.
2. In that capacity, the five-member sub-committee recommended and approved the candidature of Prof. Sudhir Krishnaswamy as the next VC, bringing the selection procedure (*which it was authorized to set*) to an end.
3. Since the approval of Prof. Krishnaswamy's candidature by the five-member sub-committee, there has been an inordinate delay of 50 days in completion of the process with no certainty as to when it shall be finalized.

III. On the issue of Composition of the Executive Council

1. The five-member sub-committee, for the purposes of appointment of the new VC, was constituted by the EC at its 88th session. The members of this session included three special invitees – Hon'ble Mr. Justice M.M.

Shantanagoudar, Hon'ble Mr. Justice S.A. Nazeer and Hon'ble Mr. Justice Deepak Gupta.

2. The 89th meeting of the EC is scheduled to convene on 28 September 2019 and it may discuss the issue of VC appointment. However, the composition of the EC has been altered merely a week before the scheduled meeting. These alterations include violations to the effect that:
 - i. An additional member from the Bar Council of India ("**BCI**") has been invited to be a part of the EC. This is in violation of the BCI member quota under clause 7(1)(g) and (h) of the Schedule to the NLSIU Act, as the upper limit of 5 members has already been reached.
 - ii. Chairman of Karnataka Bar Council has been nominated to the new EC. However, it remains unclear as to under which provision of the NLSIU Act has he been nominated.
 - iii. The three special invitees – Hon'ble Mr. Justice M.M. Shantanagoudar, Hon'ble Mr. Justice S.A. Nazeer and Hon'ble Mr. Justice Deepak Gupta, to the 88th meeting of the EC meeting, who were integral to the process of appointment of the new VC, have not been invited to the 89th meeting. Although the special invitees are not necessarily required to be invited to the 89th meeting under the NLSIU Act, procedural fairness and continuity of decision making process demand their presence.
 - iv. It is strongly recommended that Hon'ble Mr. Justice M.M. Shantanagoudar, as a member of the five-member sub-committee, should be invited to attend the 89th meeting of the EC as per Clause 11(2) of the Schedule to the NLSIU Act. However, as per the new constitution of the EC, he has not been invited currently. This is again in violation of procedural fairness and continuity of decision-making of the VC appointment process.
3. The VC of NLSIU enjoys a voting power at all EC meetings. However, Prof. MK Ramesh's appointment as VC (FAC) is not in consonance with the NLSIU Act and Regulations. Hence, he should not be considered a regular voting member at the 89th EC meeting.

IV. Student Grievances against the Administration

In his interaction with the four-member committee, the VC (FAC) asked the committee to deliberate upon other grievances that the Student Body had raised earlier. However, it was the opinion of the committee that the same requires deliberations at length and should be addressed separately by an appropriate committee at a later stage.

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