

JNUTA statement on Oct 3 Amendment to M-18

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ADD A COMMENT

The JNUTA wishes to alert all faculty colleagues to the fact of the amendment that has been carried in the Regulation M-18 pertaining to the Panel of Experts and the dire implications that this has for faculty promotion and selection hereafter. Based on a resolution by the 269th Executive Council meeting, this amendment is not only illegal it is also malafide.

First, the illegalities, which are particularly shocking given that the subject matter of amendments are *sub judice* in the *Bishnupriya Dutt & Ors. v. Jawaharlal Nehru University Writ Petition in the Delhi High Court.*

1. ***By the JNU Act, the Academic Council is the sole body which can determine the database of experts for invitation to the Selection Committee.*** Statute 27(2)(v) provides that three external experts shall be nominated by the VC out of the panel of names approved by the Academic Council. The Executive Council has no authority to frame/amend Regulations that usurp the powers of one statutory body and re-assign it wholly or partially to another body/office. **By usurping the Academic Council's power and handing it to the Vice-Chancellor, the Executive Council has exceeded the powers it itself**

may exercise under the JNU Act.

2. *Under the JNU Act, the power of the VC to nominate experts is balanced by the fact that only the Academic Council can constitute the pool from which the experts can be selected.* In the current scenario, the VC combines in himself both powers, thereby seriously compromising the independence and fairness of the Selection Committee. The VC can add three experts to the pool, then nominate all three of them, and then by virtue of being the Chair of the Selection Committee, collude with his three nominees to pick the candidate of his choice, irrespective of their academic credentials or suitability to the position. By allowing such a scenario to come about by amending M-18, **the Executive Council has created a Regulation that is in violation of the provisions of the JNU Act.**
3. *All Regulations framed under the JNU Act must facilitate both application of mind and due diligence.* The Executive Council has however amended the M-18 Regulation in such a manner that **neither is possible.** The Vice-Chancellor is not a person who has knowledge in every area of human knowledge. He is therefore not qualified to propose additions to the panel of experts in all fields, and indeed not even qualified to undertake consultations with experts in each field in order to name to add the names of (other) experts. Furthermore, by sharply restricting the conditions in which names of experts can be removed to just three, the Executive Council has ensured that reasonable steps to avoid an offence under some rule or law can no longer be taken. There are numerous scenarios possible for which the name of an expert must be deleted from the panel — (s)he is no longer research active, has been found to have committed sexual harassment, financial regularities, or caste discrimination, has not been fair and

impartial in selection, or actually has been recruited by JNU as part of its faculty.

Why has M-18 been amended?

Regulation M-18 provides a prescribed procedure by which for creating the database of experts which follows the letter and spirit of the JNU Act. The amendment violates it, and has been framed bypassing the Academic Council altogether. **The aim is of course to try to 'regularise' the illegal additions the VC has made to panel of experts from this date on, so that this Regulation can no longer be relied on legal challenge to selection/appointments made after 3 October 2017.**

Dire Implications

Colleagues must note that by the Amended M-18, any or all Selection Committees may henceforth comprise all three experts nominated by the VC (and none from the Academic Council approved panel submitted by Schools/Centres). As the Amended M-18 only requires that **the names be reported to the Executive Council at a later date**, this can be after selections have been made, and offers of appointment given. Furthermore, the same three experts may be called for selection committees again and again as the hubris of usurped power brooks no quibbles about specialisation — experts nominated by a non-expert are deemed to be masters of the 'entire subject'. Indeed this is the practice that has been employed thus far. This opens the Selection Committee up as a space for manipulation and victimisation, since the quorum for a Selection Committee is, by the Statutes, only four. The Vice-Chancellor and his nominees can thus proceed in a partial manner, ignoring the opinions of other members of the Selection Committee. As a consequence, promotions

can be withheld on the flimsiest of pretexts, and recruitment can be of poor quality with the best candidate not being selected/

JNU faculty know that much of this has already been happening and that Deans/ Chairpersons and elected teachers' representatives who have objected to illegitimate Selection Committees, improper procedure, and/or poor quality recruitment or withholding of promotions have been instantaneously targeted. Whereas the illegal actions of the JNU Vice Chancellor had no support from any JNU rule or regulation to tamper before October 3, the Executive Council has illegally handed over this power to him now.

To evolve JNUTA's strategy on this matter, as well as to discuss the various acts of intimidation on the Selection Committee issue, the JNUTA requests colleagues to attend an Emergency General Body Meeting on 11 October 2017 at 4.00 p.m., at the Faculty Club.

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