

Further, Council appointed a subcommittee to draft a press release on the positions of the Council in respect of developing Vanni University.

1. Prof. Hasbullah
2. Dr.Sivasekaram
3. Mr.Manosekaram
4. Rector Vavuniya Campus
5. Two Deans of Vavuniya Campus

#### **5. Special Council Meeting for the Election of Vice Chancellor**

The Chairperson informed that Acting Registrar wrote a letter to the Legal officer of the University Grants Commission seeking legal opinion on whether the late application can be accepted for processing. She further said that the UGC has already appointed an observer for the Vice Chancellor Election:

The Chairperson read the following letter written to UGC:

“Deputy Secretary,  
Legal & Documentation Division,  
University Grants Commission,  
No. 20, Ward Place,  
Colombo- 07

Through: The Secretary/ University Grants Commission

Sir,

#### **Appointment to the Post of Vice Chancellor** **Clarification on Eligibility of an applicant**

We advertised for the Post of Vice Chancellor, University of Jaffna on 29<sup>th</sup> of November 2016 and the closing date for the submission of application was on 16<sup>th</sup> January 2017.

Five applications were received by the Acting Registrar/ Secretary to the Council before 16<sup>th</sup> of January 2017 and another application was received by the University Administration branch on 18<sup>th</sup> and reached the Registrar's Office on 19<sup>th</sup> of January 2017, whereas the said application was registered in USA on 27<sup>th</sup> December 2016.

Further, the said applicant is an employee of one of the University in USA and he has not forwarded his application through the Head of the Institution. In addition he has not mentioned about his citizenship whether Sri Lankan or not.

This matter was discussed at the Council and the Council decided to obtain legal advice from the UGC on whether his application can be accepted for processing. The copy of the advertisement published by us is annexed.

Hence please advise us whether the said application can be processed.

Your prompt response is highly appreciated since it is very urgent.

Acting Registrar  
University of Jaffna

The Chairperson read the following reply from the Secretary/UGC:

Acting Registrar,  
University of Jaffna,  
Jaffna.

**Appointment to the Post of Vice Chancellor**

This refers to the letter sent by you regarding the above matter.

On perusal of the advertisement published calling for applications for the Post of Vice Chancellor attached to your letter, we are of the view that the University is not legally bound to entertain applications/nominations reached the University after the deadline mentioned in the said advertisement, provided that the University is in a position to prove the receipt of the same was after the deadline.

Further, we wish to note that non-compliance of the requirement stated under (iv) of the advertisement shall not be applicable against the applicant as he is not employed in Sri Lanka and Sub paragraph 18:12:2 of Chapter 03 of the Establishment Code of the University Grants Commission and the Higher Educational Institutions is applicable when appointing non-citizens to any post in Universities.

Dr. Priyantha Premakumara  
Secretary

She further read the clause 18:12:2 of Chapter 03 of University Establishment code as follows:

Further, the said applicant is an employee of one of the University in USA and he has not forwarded his application through the Head of the Institution. In addition he has not mentioned about his citizenship whether Sri Lankan or not.

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Dr. Priyantha Premakumara  
Secretary

She further read the clause 18:12:2 of Chapter 03 of University Establishment code as follows:

“Persons who are not citizens of Sri Lanka should not be appointed to any post in the commission/ Higher Educational Institutions. Provided that a person who is not a citizen of Sri Lanka and is lawfully in Sri Lanka under the authority of a passport or visa granted or issued under the Immigrants and Emigrants Act may be appointed to the staff of the commission or a Higher Educational Institution with the concurrence of the Ministry of Higher Education when necessary”

Prof.Tharmaratnam said that whenever the legal Officer gives legal opinion he/she must aware of country's laws. According to our advertisement, an applicant can submit his application by registered post or hand delivered and no other options given in the advertisement. Then the postal law will apply.

There was a case in 1994. If a party determine the post as mode of communication, even the party that decides mode of communication as post is even responsible to the lost in the post also. But there is a delay in the post in this case.

Prof.Tharmaratnam referred Prof.Weeramanthy's book on “The law of contracts”. Prof.Weeramanthy is eminent professor in law and former judge of Supreme Courts. Prof.Tharmaratnam came across on judgment which is used relevant to our case with the help of Prof.Weeramandry's book. In this case of University of Ceylon v Fernando [1957] a Bench of five judges of the Supreme Court held that where the post is used as a medium of transmitting the prescribed notice, the applicant for leave to appeal was required to do no more than send, in due time, a properly addressed prepaid letter containing the name and address of the opposite party. Further, the Chief Justice H.H Basnayake observed where a letter, particularly and fully directed to a person at his usual place of residence, is proved to have been put into the post office; this is equivalent to proof of delivery in the hands of that person; because it is a safe and reasonable presumption that it reaches its destination. The Chief Justice also observed that although the law does not require that the registered post should be used, it is the practice for certain persons to adopt the safeguard of registering the letter so that proof of its delivery at its destination could be adduced should it become necessary to do so

Prof.Tharmaratnam further said that it is a five Bench decision and this five Bench decision is authoritative until it is overruled. Hence the date of registered post should be adopted. If advertisement says that application should be reached by us on or before the closing date and time without

