

(2003) 04 AHC CK 0074
In the Allahabad High Court
Case No : C.M.W.P. No. 7614 of 2003

Akhilesh Kumar Mishra

APPELLANT

Vs

Vice Chancellor and Another

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Constitution of India, 1950 — Article 19
Uttar Pradesh State Universities Act, 1973 — Section 13

Citation : (2003) 5 AWC 4377

Hon'ble Judges : Ashok Bhushan, J

Bench : Single Bench

Advocate : Ved Prakash Misra, for the Appellant; Anil Tiwari and Nripendra Misra, for the Respondent

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.—Heard Sri Ved Prakash Misra, learned Counsel appearing for the Petitioner and Sri Anil Tiwari and Sri Nripendra Misra appearing for the Respondent Nos. 1 and 2. Counter-affidavit has been filed by the university. As prayed by counsel for both the parties the writ petition is being finally decided.

2. By this writ petition the Petitioner has prayed for quashing the order dated 7.2.2003, Annexure-1 to the writ petition, passed by the Vice Chancellor, Sampurnanand Sanskrit Vishwa Vidyalaya, Varanasi, appointing Professor Narendra Nath Pandey, Dean Students Welfare, as Returning Officer for conducting Election of Employees Union, 2003. It has further been prayed that a direction in the nature of mandamus be issued commanding the Respondents not to interfere in the internal affairs of the Karmachari Sangh.

3. Brief facts emerging from the pleadings of the parties are:

Petitioner claims to be a regular employee of Sampurnanand Sanskrit Vishwa Vidyalaya, Varanasi, working as Junior Assistant. There is an association namely, Karmachari Sangh in Sampurnanand Sanskrit Vishwa Vidyalaya, Varanasi of

which the Petitioner claimed to be elected as Vice-President in the election held in the year 2002. It is stated that the election of Karmachari Sangh (hereinafter to be referred as the "Union") is governed by the bye law framed by Karmachari Sangh. It has been stated in the writ petition that in the meeting held with the Vice Chancellor, office bearers of the union and certain officers of the university a decision was taken to recognise the Union. It has further been stated that by an order dated 1.12.2002 Vice Chancellor dissolved the union with immediate effect. Against which a Writ Petition No. 1373 of 2003 was filed and interim order was granted thereafter the stay order was extended till the next date of hearing. An order dated 7.2.2003 has been passed by the Vice Chancellor appointing Professor Narendra Nath Pandey, Dean Students Welfare to conduct election of the union for the year 2003. This writ petition has been filed challenging the order dated 7.2.2003, a counter-affidavit has been filed by the university to which the Petitioner chose not to file a rejoinder-affidavit. In the counter-affidavit it has been stated that in earlier election of the union many persons participated in the election who were not the employees of the university. It was further stated that in the election several persons who were elected as office bearers, were not employees of the university and they were elected to pressurise the University Administration to take decision in their favour. It has further been stated in paragraph 6 of the counter-affidavit that due to above there was chaos in the university in which several decisions were taken by the Vice Chancellor to enforce the discipline in the premises. It has further been stated that the Karmachari Sangh i.e., the union can be constituted in the university only by the employees of the university and not by the outsider. It has further been stated that to enforce the discipline the action was taken by the Vice Chancellor.

4. Learned Counsel, appearing for the Petitioner raised following submissions in support of the writ petition:

(1) The action of the Vice Chancellor in appointing Professor Narendra Nath Pandey Dean Students Welfare as Returning Officer for conducting the election of the Union is violative of rights of the Petitioner under Article 19(1)(c) of the Constitution of India.

(2) The Petitioner has right to conduct the election of the union in accordance with the Constitution of Sampurnanand Sanskrit Vishwa Vidyalaya, Varanasi Karmachari Sangh, which has been framed by the general body of the union. The appointment of the Returning Officer being in breach of Constitution of the Union hence is void and inoperative.

5. In support of the above submission the counsel for the Petitioner has placed reliance on Apex Court judgment in Smt. Damyanti Naranga Vs. The Union of India (UOI) and Others, ; H. Puttappa and Ors. v. State of Karnataka and Ors. AIR 1978 Kar 148 and Asom Rastrabhasa Prachar Samiti and Another Vs. State of Assam and Others, .

6. Sri Anil Tiwari learned Counsel appearing for the university has submitted that

the Returning Officer has been appointed by the Vice Chancellor with the object that only employees of the university may be allowed to participate in the election of the union and further to maintain discipline in the university campus. Referring to paragraph 6 of the counter-affidavit counsel for the university has submitted that in the last year's election of the union several outsiders were elected as office bearers of the union and several persons who were not the employees of the university, were elected to pressurise the University Administration. His submission is that in view of the fact that the outsiders be not allowed to participate in the election in the campus of the university, the Vice Chancellor appointed Returning Officer who is Dean Students Welfare of the university for conducting the election of the union. Sri Tiwari further submitted that the appointment of the Returning Officer was only for the purpose of conducting the election of the union and none of the rights of the Petitioner guaranteed under Article 19(1)(c) of the Constitution of India are affected. There is no infringement of the right of the Petitioner to form an association. Since the election will be conducted only from the employees of the union and it will be the employees who were to form their association and elect their office bearers. The averments made in paragraph 6 of the counter-affidavit of the university has not been denied by the Petitioner. The counsel for the Petitioner on 21.2.2003 has made a statement that he does not want to file rejoinder-affidavit.

7. I have considered the submissions and perused the record.

8. Both the submissions raised by the counsel for the Petitioner are inter-related and are being considered together. The writ petition raises a very significant and interesting question for consideration of the Court. The submission of the counsel for the Petitioner is that under Article 19(1)(c) of the Constitution of India every citizen has right to form association or union. The submission is that right to form association or union also included the right to carry on the affairs of the union including the election of the union according to the Constitution of the Union. Any interference in the conduct of election by the union or its office-bearers is an infringement of the right guaranteed under Article 19(1)(c) of the Constitution of India. Referring to Constitution of the Union the counsel contended that in the Constitution Vice Chancellor has no power to appoint Returning Officer hence the appointment of the Returning Officer is in breach of the provisions of the Constitution resulting in violation of right guaranteed under Article 19(1)(c) of the Constitution.

9. Article 19(1)(c) of the Constitution of India do guarantee a fundamental right to every citizen to form an association or union. This fundamental right has been guaranteed to every citizen under the Constitution. Right of association is as inalienable in its nature as the right of personal liberty. It is the right of the individual to pick his own associates as to express his preferences and dislikes, and to fashion his private life by joining such groups as he chooses. To quote Laski (at page 447, Freedom of Association in Encyclopaedia of Social Sciences) "Freedom of association" is a recognised legal right on the part of all persons to

combine for the promotion of purposes in which they are interested."

10. The important question to be considered is as to what is the extent and scope of right to form Association or Union as guaranteed under Article 19(1)(c) of the Constitution of India and whether in the facts of the present case rights guaranteed under Article 19(1)(c) of the Constitution have been infringed. The counsel for the Petitioner elaborating his submission with clarity and brevity contended that since in the Constitution of the Union Returning Officer has to be appointed by the Karya Samiti of the Union, hence the appointment of the Returning Officer by the Vice Chancellor violates the rule of Union's Constitution which in turn infringes the right of the Petitioner under Article 19(1)(c) of the Constitution. Before proceeding further to consider the issue, it is relevant to note that the union in the present case is the union of the employees of the Sampurnanand Sanskrit Vishwa Vidyalaya, Varanasi and the members of the union are under the employment of the university. Being employees of the university, the members of the union are subject to discipline, Rules of Conduct and governed by the statutory provisions including the U.P. State University Act, 1973, statute and Ordinances framed thereunder. Rights of the Petitioner under Article 19(1)(c) of the Constitution of India has to be spelled taking into consideration the above mentioned facts. Counsel for the Petitioner has strongly relied on the judgment of the Apex Court in *Smt. Damyanti Naranga v. Union of India and Ors.* (supra). Before the Apex Court, validity of Hindi Sahitya Sammelan, Act XIII of 1962 was challenged. Hindi Sahitya Sammelan, was registered as society in 1914 for development of Hindi. Parliament enacted Act No. XIII of 1962 which contains various provisions including the provisions as to who will be the members of the Sammelan. The governing body of the Sammelan was to be constituted u/s 8 consisting of Chairman, Secretary and thirteen other members. This governing body was to be constituted by a notification in the official Gazette by the Central Government where members were chosen from various sources including the Ministry of Education of Central Government, Ministry of Finance Central Government and three members amongst former Presidents of the Society and from the persons who are eminent in the field of Hindi language or Hindi literature. The above Act was challenged in the High Court and thereafter in the Apex Court contending the violation of right under Article 19(1)(c) of the Constitution. The contention before the Apex Court was that the composition of the society has been changed and the certain members have been thrust upon the society without consent of the members. The contention raised before the Apex Court was that the right to form association also includes the right not to be associated with persons against the will of the members. The Apex Court held that right to form Association can be effective only if it is held to include within it the right to continue the Association with its composition as voluntarily agreed upon by the persons forming the Association. The Apex Court after analysing the various provisions of the Act No. XIII of 1962 laid down following in paragraph 6:

6. ...The Act does not merely regulate the administration of the affairs of the

society what it does is to alter the composition of the society itself as we have indicated above. The result of this change in composition is that the members, who voluntarily formed the Association are now compelled to act in that Association with other members who have been imposed as members by the Act and in whose admission to membership they had no say. Such alteration in the composition of the Association itself clearly interferes with the right to continue to function as members of the Association which was voluntarily formed by the original founders. The right to form an association, in our opinion, necessarily implies that the persons forming the Association has also the right to continue to be associated with only those whom they voluntarily admit in the association. Any law by which members are introduced in the Voluntary Association without any option being given to the members to keep them out, or any law which takes away the members of those who have voluntarily joined it, will be a law violating the right to form an association. If we were to accept the submission that the right guaranteed by Article 19(1)(c) is confined to the initial stage of forming an Association and does not protect the right to continue the Association with the membership either chosen by the founders or regulated by rules made by the Association itself, the right would be meaningless because, as soon as an Association is formed, a law may be passed interfering with its composition, so that the Association formed may not be able to function at all. The right can be effective only if it is held to include within it the right to continue the Association with its composition as voluntarily agreed upon by the persons forming the Association....

Further in same paragraph the Apex Court held:

That case, thus, supports our view that the right to form an Association includes the right to its continuance and any law altering the composition of the Association compulsorily will be a breach of the right to form the Association.

11. The ratio which was laid down by the Apex Court in the aforesaid case was that right to form Association includes within it the right to continue the Association with its composition as voluntarily agreed upon and any law altering the composition of the Association compulsorily will be breach of right to form the Association. The Apex Court declared Act No. XIII of 1962 violating Article 19(1)(c) since by Central enactment the composition of registered society was changed and new members were thrust upon the society without there being the consent of the original members of the society. In the present case there is no such eventuality. The composition of the Petitioner's union is not changed nor any new members have been thrust upon the union by the university. The only order which has been passed by the Vice Chancellor of the university is the appointment of the Returning Officer for conducting the election of the union from amongst the genuine members of the union. It is stated in the supplementary-affidavit filed by the Petitioner that the name of the Petitioner is included at Serial No. 74 in the voter list issued by the Returning Officer. There is no case in the writ petition that any genuine member of the Association has not

been permitted to participate in the election or certain persons who are not the members of the Association have been included in the Association. The basis for declaring the Central Act as violative of Article 19(1)(c) of the Constitution of India in the case before the Apex Court are absent in the present case.

12. In view of the above the decision of the Apex Court in the case of Smt. Damyanti Naranga v. Union of India and Ors. (supra) do not support the contention of the Petitioner that there is violation of rights of Petitioner under Article 19(1)(c) of the Constitution of India by merely appointing the Returning Officer for conducting the election.

13. The University in its counter-affidavit has explained in paragraph 6 the reasons for which necessity of appointing the Returning Officer arose in the present case. It has been clearly stated in paragraph 6 that in the earlier election the persons who were not the members of the Association were elected as office bearers with object of pressurising the administration of the university which resulted in conflict and chaos in the university. The order of the Vice Chancellor appointing the Returning Officer has been stated to be made for ensuring discipline in the premises under the U.P. State Universities Act, 1973. The Vice Chancellor has power and duties to maintain discipline in the university. u/s 13 of the U.P. State Universities Act, 1973 the Vice Chancellor is the Principal executive of academic university and is responsible to maintain the discipline of the university. Taking an action to ensure that the outsiders do not participate in an election of the Union of employees is with object to maintain discipline in the university. The election is of the employees' union conducted in the university, hence an officer can very well be appointed by the Vice Chancellor to ensure that election is conducted in disciplined manner without participation of any outsider. An activity in the university campus can very well be regulated by the university and measures can be taken for preventing outsiders from participating in any activity held in the campus of the university. For the reasons given in paragraph 6 of the counter-affidavit, the action of the university in appointing the Returning Officer for conducting the election of the union cannot be said to be unjustified.

14. Two other decisions relied by the counsel for the Petitioner are H. Puttappa and Ors. v. State of Karnataka and Ors. AIR 1978 Kar 148 and Asom Rastrabhasa Prachar Samiti and Another Vs. State of Assam and Others, . The Full Bench of Karnataka High Court was considering the constitutionality of Section 14A of the Karnataka Co-operative Societies Act, 1959. By Section 14A the staff of the Karnataka Co-operative Societies was empowered to amalgamate two or more Co-operative Societies in a single Co-operative Society or to divide any Co-operative Society or to reorganise Co-operative Society. The argument was raised before the Full Bench that said power given to Registrar u/s 14A is violative of Article 19(1)(c) of the Constitution. After considering the Apex Court's judgment in the case of Smt. Damyanti Naranga v. Union of India and Ors. (supra) the Full Bench laid down in paragraph 22:

22. We will now refer to the case of Smt. Damyanti Naranga Vs. The Union of

India (UOI) and Others, , upon which strong reliance was placed by counsel for the Petitioners. In that case, Parliament passed a law under Entry 63 of List II of Seventh Schedule to the Constitution whereby a Hindi Sammelan was constituted as a corporate body materially affecting the management and the property of the previous committee of members of the society registered under the Societies Registration Act. The Supreme Court held that the Act in so far as it interfered with the composition of the society in constituting the Sammelan violated the rights of the members of the original society to form an Association. The facts of that case are far removed from those of the case on hand. Therefore, we do not think that the principles stated therein are of much assistance to the Petitioners herein. When the Sammelan in that case was registered under the Societies Registration Act, it became not a body corporate. Even the properties did not vest in such society. The properties vested in the governing body of the society. The Hindi Sammelan registered under the Societies Registration Act was really an Association of persons. Therefore, the Supreme Court said on the facts of that case that the enactment of the Central Government was violative of Article 19(1) (c) of the Constitution.

The view that we take finds full support from the decision of the Full Bench of the High Court of Kaamareddy Suryanarayana and Another Vs. The District Co-operative Officer-cum-Election Officer, The West Godavari Co-operative Sugars Ltd. and Others, , while repelling the similar contention it was held therein that the right to form a co-operative society under the Co-operative Societies Act is not a fundamental right and it is only a right given under the Act, subject to its provisions and the rules framed thereunder.

The contention raised on basis of Article 19(1)(c) of the Constitution was rejected. The counsel for the Petitioner relied on paragraph 53 of the judgment delivered by Justice Malimath. Majority judgment was delivered by K. Jagannatha Shetty, J. (as he then was). The judgment of Malimath, J., represented the minority view in the Full Bench. Further, the aforesaid case do not help the Petitioner in any manner. In the present case there is no question of amalgamation, division or the reorganisation of the Union.

15. The last case relied by the counsel for the Petitioner is Asom Rastrabhasa Prachar Samiti Hedayatpur-Gauhati-3 and Anr. v. State of Assam and Ors. (supra). The Asom Rastrabhasa Prachar Samiti was a registered society under the Societies Registration Act which had a membership of 22,000 persons scattered all over the States and Union Territories of North-Eastern part of India. Action was taken under Assam Rashtrabhasa Prachar Samiti (Taking over of Management and Control) Act, 1984. The Apex Court relying on the case of Smt. Damyanti Naranga v. Union of India and Ors. (supra) held that notification issued under the Act referred therein for taking over the Management of Rashtrabhasa Prachar Samiti could not be accepted to be in accordance with the Constitution. It was held in paragraph 22:

22. It is therefore, clear that so far as the present case is concerned it is not only

that the new members are introduced, not only that the complete control is left to the Board to be nominated by the Government, about the persons no norms have been laid down, the person so nominated could be anyone and no control is kept to those who formed the Society, those who had a right to form an Association will be kept away and the society shall be run by group of persons nominated by the Government in accordance with Section 3. It is therefore, clear that what was done in the Sammelan Acts which were under examination in the Constitutional Bench judgment referred to above much more has been done in this case. In this case virtually the right of Association has been taken away and not only that it is a sort of deprivation for all times as it is not even provided that this Board may be an interim Board and thereafter a proper Board will be elected but here this Board will continue to control and manage the affairs of the Society. In the Constitution Bench case their Lordships considered the scope of Article 19(1)(c) in the context of what was contemplated in that Act and observed (at p. 971 of AIR)

The right to form an Association, in our opinion, necessarily implies that the persons forming the Association have also the right to continue to be associated with only those whom they voluntarily admit in the Association. Any law, by which members are introduced in the voluntary Association without any option being given to the members to keep them out, or any law which takes away the membership of those who have voluntarily joined it will be a law violating the right to form an Association. If we were to accept the submission that the right guaranteed by Article 19(1)(c) is confined to the initial stage of forming an Association and does not protect the right to continue the Association with the membership either chosen by the founders or regulated by rules made by the Association itself, the right would be meaningless because, as soon as an Association is formed, a law may be passed interfering with the composition, so that the Association formed may not be able to function at all. The right can be effective only if it is held to include within it the right to continue the Association with its composition as voluntarily agreed upon by the persons forming the Association.

It is, therefore, clear that even on the basis of the pronouncement of the Constitution Bench, the Act and the notification issued under this Act taking over the management of the Rastrabhasha Prachar Samiti could not be accepted to be in accordance with the Constitution."

The aforesaid case also do not help the Petitioner in any manner since in that case new members were introduced and complete control was vested in the Board nominated by the Government. The clear violation of Article 19(1)(c) was found on basis of the proposition laid down in *Smt. Damyanti Naranga v. Union of India and Ors.* (supra). This case also do not help the Petitioner in any manner.

16. The right under Article 19(1)(c) came for consideration before the Apex Court in large number of cases. The extent of right under Article 19(1)(c) of the Constitution came for consideration before the Constitution Bench in All India

Bank Employees" Association Vs. National Industrial Tribunal and Others, . The question considered in the case was as to whether when Article 19(1)(c) guarantees the right to form Association, is a guarantee also implied that the fulfilment of every object of an Association so formed is also a protected right, with the result that there is a constitutional guarantee that every Association shall effectively achieve the purpose for which it was formed without interference by law except on grounds relevant to the preservation of public order or morality set out in Clause (4) of Article 19. Restriction of rights guaranteed under Article 19(1)(c) can be laid down by making a law by the State in the interest of sovereignty and integrity of India or public order or morality. Article 19(4) is extracted below:

19 (4) Nothing in Sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing in the interests of the (the sovereignty and integrity of India or) public order or morality, reasonable restriction on the exercise of the right conferred by the said sub-clause.

17. Present is not a case claiming any restriction of right of Petitioner's Association within the meaning of Article 19(4), Restriction under Article 19(4) can only be made by existing law or by law made by the State. The further question in this case is as to whether the Association can claim right of protection under Article 19(1)(c) of the Constitution with regard to its activities and whether it can challenge every action affecting its right on the anvil of Article 19(4). The question as is noted above which arose in All India Bank Employees" Association v. National Industrial Tribunal (Bank Disputes), Bombay and others case (supra) was answered by the Constitution Bench in paragraph (21). It was laid down in paragraphs (21) and (22):

(21) There is no doubt that in the context of the principles underlying the Constitution and the manner in which its Part III has been framed the guarantees embodied in it are to be interpreted in a liberal way so as to subserve the purpose for which the Constitution-makers intended them and not in any pedantic or narrow sense, but this however, does not imply that the Court is at liberty to give an unnatural and artificial meaning to the expressions used based on ideological considerations. Besides it may be pointed out that both under the Trade Unions Act as well as under the Industrial Disputes Act the expression "union" signifies not merely a union of workers but includes also unions of employers. If the fulfilment of every object for which a Union of workmen was formed were held to be a guaranteed right, it would logically follow that a similar content ought to be given to the same freedom when applied to a union of employers which would result in an absurdity. We are pointing this out not as any conclusive answers but to indicate that the theory of learned Counsel that a right to form unions guaranteed by Sub-clause (c) of Clause (1) of Article 19 carries with it a fundamental right in the union so formed to achieve every object for which it was formed with the legal consequence that any legislation not falling

within Clause (4) of Article 19, which might in any way hamper the fulfilment of those objects, should be declared unconstitutional and void under Article 18 of the Constitution, is not a proposition, which could be accepted as correct.

(22) Besides the qualification subject to which the right under Sub-clause (c) is guaranteed, viz., the contents of Clause (4) of Article 19 throw considerable light upon the scope of the freedom for the significance and contents of the grants of the Constitution are best understood and read in the light of the restrictions imposed. If the right guaranteed included not merely that which would flow on a literal reading of the article, but every right which is necessary in order that the Association brought into existence fulfils every object for which it is formed, the qualifications therefore would be not merely those in Clause (4) of Article 19 but would be more numerous and very different restrictions which bore upon and took into account the several fields in which Associations or unions of citizens might legitimately engage themselves. Merely by way of illustration we might point out the learned Counsel admitted that though the freedom guaranteed to workmen to form labour unions carried with it the concomitant right to collective bargaining together with the right to strike, still the provision in the Industrial Disputes Act forbidding strikes in protected industries as well as in the event of a reference of the dispute to adjudication u/s 10 of the Industrial Disputes Act was conceded to be a reasonable restriction on the right guaranteed by Sub-clause (c) of Clause (1) of Article 19. It would be seen that if the right to strike were by implication a right guaranteed by Sub-clause (c) of Clause (1) of Article 19 then the restriction on that right in the interests of the general public, viz., of national economy while perfectly legitimate if tested by the criteria in Clause (6) of Article 19, might not be capable of being sustained as a reasonable restriction imposed for reasons of morality or public order. On the consideration of the Article, therefore, apart from the authorities to which we shall refer presently, we have reached the conclusion that even a very liberal interpretation of Sub-clause (c) of Clause (1) of Article 19 cannot lead to the conclusion that the trade unions have a guaranteed right to an effective collective bargaining or to strike, either as part of collective bargaining or otherwise. The right to strike or the right to declare a lock-out may be controlled or restricted by appropriate industrial legislation and the validity of such legislation would have to be tested not with reference to the criteria laid down in Clause (4) of Article 19 but by totally different considerations.

The Apex Court further laid down following in paragraph (28):

(28) ...In our opinion, the right guaranteed under Sub-clause (c) of Clause (1) of Article 19 extends to the formation of an Association and in so far as the activities of the Association are concerned or as regards the steps which the union might take to achieve the purpose of its creation, they are subject to such laws as might be framed and that the validity of such laws is not to be tested by reference to the criteria to be found in Clause (4) of Article 19 of the Constitution.

18. To the similar effect is the judgment of the Apex Court in *Raghubar Dayal Jai Prakash Vs. The Union of India (UOI) and Others*, . The Apex Court in the

aforesaid judgment noted in detail the submissions raised before the Court in paragraph 11 and answered the questions in paragraphs 12, 13 and 14. The elaborate submissions as noted by the Apex Court in paragraph 11 were as follows:

(11) Briefly stated, the argument regarding these provisions infringing the freedom to "form Associations" was as follows: K 1. The Constitution guarantees to every citizen the right to form an Association. The only limitation which might legally be imposed on this right to form an Association is that set out in Clause (4) of Article 19, viz., by laws which place restrictions based on public order or morality. Where the object of the Association is lawful, the citizen through that Association, and the Association itself are entitled, by virtue of the guaranteed right, to freedom from legislative interference in the achievement of its object except on grounds germane to public order or morality. In other words, the freedom guaranteed should be read as extending not merely to the formation of Association as such, but to the effective functioning of the Association so as to enable it to achieve its lawful objects. Unless Sub-clause (c) of Clause (1) of Article 19 were so read the freedom guaranteed would be illusory and the Court should in construing a freedom guaranteed to the citizen, so read it, as to give him an effective right which could be used for the purpose for which the Constitution-framers intended. The further submission, which was in the nature of a corollary from the above was that the freedom guaranteed by Sub-clause (c) of Clause (1) of Article 19 carried with it a right in the Association to determine its internal arrangements in the matter of selecting the personnel who shall manage it, the framing of the bye-laws and regulations which shall govern the relationship between the Association and its members as also between its members without any interference by the State, unless the law providing for such interference were grounded on morality or public order. In effect the submission was that the right guaranteed under Sub-clause (c) of Clause (1) of Article 19 was not merely, as its text would indicate, the right to form an Association but would include the functioning of the Association without any restraints not dictated by the need for preserving order or the interests of morality. On these premises it was urged that while the Constitution had guaranteed the freedom to form an Association including inter-alia one for fostering or regulating forward trading, still the Central Government had taken upon themselves the right to determine the rules and bye-laws under which the Association could function and had, by the provisions in Chapter III of the Act, in every way interfered in the matter of internal management and it was urged that this was violative of the right guaranteed by Sub-clause (c) of Clause (1) of Article 19 since the restrictions in Chapter III of the Act could not be held to have been dictated on grounds of public order or morality.

The arguments raised in paragraph 11 were found without any force by the Apex Court relying on the Apex Court judgment in *All India Bank Employees' Association v. National Industrial Tribunal (Bank Disputes), Bombay, and others* case (supra) it was held in paragraphs 13 and 14:

(13) Suspension order for we have dealt with the argument about Sub-clause (c) of Clause (1) of Article 19 in relation to the trades Associations under the Act. As regards the wider question argued before us regarding the scope of Sub-clause (c) of Clause (1) of Article 19, this Court has in Civil Appeal No. 154 of 1961, All India Bank Employees" Association Vs. National Industrial Tribunal and Others, , examined the contents of this "freedom of Association" in the light of the other freedoms guaranteed by the other sub-clauses of Clause (1) of Article 19. in which judgment has been rendered recently and it is therefore, necessary to go over the ground again.

(14) We have no hesitation in rejecting the argument that the provisions in Chapter III of the impugned Act, and in particular those which we have set out above, infringe, in any manner, the freedom guaranteed by Sub-clause (c) of Clause (1) of Article 19.

19. From the aforesaid pronouncement, it is clear that what is guaranteed under Article 19(1)(c) of the Constitution is the right to form Association or Union as laid down by Smt. Damyanti Naranga v. Union of India and others case (supra). The right to form Association also included right to be associated with the persons of choice. However, various steps taken by the Association or the activity of the Association cannot claim protection under Article 19(1)(c) of the Constitution. This can be illustrated by giving examples. An employees" union, as in the present case, convenes a meeting of Association for conducting election of his office-bearers in the campus of the university at time when the examination is going on in the university. Whether an order of Vice Chancellor directing the union not to hold meeting for conducting election can be said to violate the rights under Article 19(1)(c) of the Constitution. Obviously, the answer will be in favour of the action of the Vice Chancellor by stopping the Association from holding a meeting on a day when the examination is to take place. The rights guaranteed under Article 19(1)(c) of the Constitution are not infringed since there is no infringement of right to form an Association. It is further clear that the said action of the university has not to be tested on the anvil of Article 19(4) of the Constitution. Since it is not required to justified under Article 19(1)(c) of the Constitution because the right to convene a meeting for holding election cannot be protected under Article 19(1)(c) of the Constitution, it being activities of the Association to achieve its object. Association cannot claim right under Article 19(1)(c) of the Constitution with regard to its every activity or action. Other actions and activities of the Association has to be tested on the basis of other statutory provisions and restrictions contained thereunder. To give another illustration, an Association of Employees Union decides to take active part in politics or decides to act as spokesman of the political party any restriction imposed by its employer in the above activity cannot be challenged as violative of Article 19(1)(c) of the Constitution.

20. The Apex Court in M.H. Devendrappa Vs. The Karnataka State Small Industries Development Corporation, , had occasion to consider the right under

Article 19(1)(c) of the Constitution. The Apex Court held in the judgment that joining Government service has, implicit in it, if not explicitly so laid down, the observance of a certain code of conduct necessary for the proper discharge of functions as a Government servant. The Apex Court held that a reasonable code designed to promote discipline and efficiency can be enforced by the Government organisation. Following was laid down in paragraph 16:

16. The fundamental freedoms enumerated under Article 19 are not necessarily and in all circumstances mutually supportive, although taken together they weave a fabric of a free and equal democratic society, e.g., the right to reside and settle in any part of the country can be put in jeopardy by a vociferous local group freely expressing its view against persons from another part of the country. Freedom of speech of one affects the freedom of movement of another. Exercising the right to form an Association may curtail the freedom to express view against its activities. For example, a person joining an Association to promote adoptions cannot express anti-adoption views. He may lose his membership. Some restriction on one's rights may be necessary to protect another's right in a given situation. Proper exercise of rights may have, implicit in them, certain restrictions. The rights must be harmoniously construed so that they are properly promoted with the minimum of such implied and necessary restrictions. In the present case joining Government service has, implicit in it, if not explicitly so laid down, the observance of a certain code of conduct necessary for the proper discharge of functions as a Government servant. That code cannot be flouted in the name of other freedoms. Of course, the Courts will be vigilant to see that the code is not so widely framed as to unreasonably restrict fundamental freedoms. But a reasonable code designed to promote discipline and efficiency can be enforced by the Government organisation in the sense that those who flout it can be subjected to disciplinary action.

21. From the foregoing discussions, it is clear that the action of the Vice Chancellor in appointing the Returning Officer for conducting the election of the members of the Association cannot be held violative of any of the rights of the Petitioner under Article 19(1)(c) of the Constitution. In the present writ petition, there is no other ground of challenge to the action of the Vice Chancellor apart from the challenge made under Article 19(1)(c) of the Constitution. The contention raised by the counsel for the Petitioner that the action of the Vice Chancellor is violative of Article 19(1)(c) of the Constitution cannot be accepted being without any substance.

22. The writ petition lacks merit and is dismissed.