

(2019) 08 UK CK 0198
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 132 Of 2019

Amit Pandey

APPELLANT

Vs

Hemwati Nandan Bahuguna Garhwal University And Others

RESPONDENT

Date of Decision : 28-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(a), 19(2)

Citation : (2019) 08 UK CK 0198

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : C.K. Sharma, Dushyant Mainali, Paresh Tripathi, Monika Pant

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. The petitioner, a social worker, has invoked the jurisdiction of this Court seeking a writ of certiorari to quash the notification of Students Union Elections 2019-20 in Hemwati Nandan Bahuguna Garhwal University (Central University) scheduled to be held on 03.09.2019; and to quash the notification, along with the order dated 06.08.2019 appointing Election Officer for conducting Students Union Election 2019-20 in Hemwati Nandan Bahuguna Garhwal University; a writ of mandamus commanding the Registrar of the University and the Election Officer of the University to restrain Students Union Elections in Hemwati Nandan Bahuguna Garhwal University in violation of the provisions of the Central Universities Act, 2009 and statutes and ordinances thereunder applicable to the Hemwati Nandan Bahuguna Garhwal University (Central University).

2. Reliance is placed on the second schedule to the statute of the University, made in terms of the provisions of the Central Universities Act, which requires constitution of a Students' Council (clause 36), and stipulates that the Dean of Students' Welfare shall be the Chairman of the Students' Council; twenty students shall be nominated by the Academic Council on the basis of merit in

studies, sports and extra-curricular activities; and twenty students shall be elected by students as their representatives. In terms of the proviso thereto, any student of the University shall have the right to bring up any matter, concerning the University, before the Students' Council, if so permitted by the Chairman; and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

3. Sub-clause (2) stipulates that the functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general; and such suggestions shall be made on the basis of consensus of opinion. Sub-clause (3) requires the Students' Council to meet at least twice every academic year; and the first meeting of the Council shall be held in the beginning of the academic session.

4. The petitioner's grievance, in this writ petition, is not that Students' Council is not being constituted, but that, instead, the University has permitted Students Union Elections to take place. Reference is made to earlier acts of vandalism by students, which had resulted in the university having to invoke the jurisdiction of this Court; and, it is only pursuant to the orders passed by this Court in the writ petition, and thereafter on its jurisdiction being invoked under the Contempt of Courts Act, was law and order restored in the University.

5. The obligations of the University to constitute the Students' Council, in terms of clause 36 of the Statute, no doubt necessitates compliance. However, in the absence of any prohibition in the statute or the Act, it would be wholly inappropriate for this Court to issue a mandamus to the University not to conduct elections for the students union.

6. The fundamental right under Article 19(1)(a) of the Constitution, to form an Association, cannot be curtailed or negated except in terms of a law made by the State imposing reasonable restrictions on such a right in terms of Article 19(2) of the Constitution. No such law has been brought to our notice. The mere fact that the statute of the University requires a students council to be constituted does not necessitate an inference that students are disabled from organization themselves as a union to ventilate their grievances before the University Administration.

7. Needless to state that elections to the Students' Union, does not confer a license to the office-bearers of the Union to disturb law and order or to browbeat officials by indulging in mindless acts of arson. We have no reason to doubt that, in case the elected members of the Union indulge in such Acts, the University shall take appropriate action in accordance with law to ensure, that normalcy prevails in the campus. The respondent University shall take action at the earliest, preferably within three months from the date of receipt of a copy of this order, to examine the feasibility of constituting a Students' Council in terms of clause 36 of the Statute of the University. That does not, however, justify the

petitioner being granted the relief sought for in the writ petition.

8. Making it clear that the jurisdiction of this Court can always be invoked in case the elected body of the Students Union indulge in lawlessness, the Writ Petition fails and is, accordingly, dismissed. No costs.