

(1994) 10 AHC CK 0050

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33481 of 1994

Bharat Bhushan Tripathi

APPELLANT

Vs

Kashi Vidyapeeth Varanasi through its Vice-Chancellor

RESPONDENT

Date of Decision : 20-10-1994

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 68

Citation : (1994) 10 AHC CK 0050

Hon'ble Judges : V.N.Khare, J and S.K.Verma, J

Final Decision : Allowed

Judgement

V. N. Khare, J.—While allowing this writ petition we directed that reasons for our judgment shall be given later on. We are now giving reasons for our judgment.

2. The question, which arises for consideration in this case, is as to whether the Vice-Chancellor, Kashi Vidyapeeth, Varanasi (hereinafter referred to as the University) has jurisdiction to entertain and decide the representation of the petitioner under Section 68 of the U. P. State Universities Act, 1973 (hereinafter referred to as the Act). In pursuance of the General Orders, passed by the Government of India, the University Grant Commission (hereinafter referred to as the U. G. C.) on the basis of directive principle, of State Policies in order to promote literacy and social awareness in the people who are below the poverty line, approved the scheme under the Adult and Continuing Education and Extension Department Centre, In this scheme one of the posts sanctioned was that of Project Officer. It is alleged that after the sanction was received, the University advertised the post of Project Officer. It was indicated in the advertisement that the post of project officer is temporary but is likely to continue till March, 1990. However the petitioner alleged that the said scheme has been extended up to March, 1995. The petitioner in response to the said advertisement, submitted his application. The petitioner, after having been selected by the selection committee was appointed to the post of project officer by an order dated 22nd April, 1985, It is further alleged that vide order dated 19th April, 1988 the service of the

petitioner was terminated. Being aggrieved, the petitioner filed a writ petition in this Court challenging the order of termination. This Court by the order and judgment dated 13th October, 1988 dismissed the writ petition. While dismissing the writ petition this Court was of view that the petitioner should be relegated to the regular Civil Suit. This Court further observed that if the petitioner approaches to the Chancellor under Section 68 of the Act, the Chancellor may have fall jurisdiction to record his finding on the question as to whether the provisions of 68 of the Act are applicable to the case of the petitioner. The petitioner, thereafter filed a representation to the Chancellor of the University under Section 68 of the Act. The Chancellor by an order dated December 29, 1989 rejected the representation of the petitioner on the ground that since the petitioner was never appointed under the provisions of the Act and Statutes made thereunder, his representation is not tenable. Aggrieved the petitioner by means of this petition under Article 226 of the Constitution has come up before this Court.

3. We have heard learned counsel for the parties. In order to decide the question which has come up for consideration, it is necessary to scan the relevant provisions of the Act. Section 3 of the Act provides that the Chancellor, the ViceChancellor and the members of the Executive Council, the Court and the Academic Council for the time being holding office as such in any University shall constitute a body corporate by the name of that University, and each University shall have perpetual succession and a common seal and shall sue and be sued by its name. Section 7 of the Act provides the powers and duties of the University. Some of the powers and duties assigned to the University are, to provide for instruction in such branches of learning as the University may think fit,, to make provision for research and for the advancement and dissemination of knowledge ; to institute teaching posts required by the University and to appoint persons to such posts ; and to do all such acts and things. Whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University. These provisions clearly show that the University is a corporate body which has to act within the ambit of the provisions of the Act and Statutes framed its under. The Universities cannot discharge any other functions which are not required to be performed by the Act, Statutes and Ordinance framed thereunder. The University can undertake only those project and scheme under its department if it is for advancement and dissemination of knowledge. The scheme known as eradication of illiteracy under the new twenty point programme of Government of India which was duly approved by the UGC clearly falls within the functions of the University namely, advancement and dissemination of knowledge. Thus the adoption and execution of the scheme was within the ambit of the provisions of the Act. The UGC while sanctioning the scheme provided the nature of posts to be created by the University. In pursuance of that directions, the University created posts under its department. One of the posts created by the University under tha Scheme was that of Project Officer, The creation of post of Project Officer also falls within the functions and powers of the University.

Similarly the University or its officer can appoint only those teacher or employee on the post if it is created by the University. Admittedly, the petitioner was appointed by the Officer of the University on the post created by the University and termination of his service was by the officer of the University. Thus we are of view that there existed relationship of master and servant between the petitioner and the University. In case it is held that the scheme is outside of the provisions of the Act, it would be difficult to say that whether the University has power to adopt and implement the scheme. As the scheme was adopted and executed within the provisions of the Act, the appointment of the petitioner was clearly under the provisions of the Act. Since the service of the petitioner was terminated by the officer of the University, the decision to that effect is open to review before the Chancellor. We are, therefore, of the open that in the present case the Chancellor was competent to entertain and decide the representation of the petitioner. In this view of the matter, we set aside the order of the Chancellor dated December 29, 1989 and send the case back to the Chancellor for decision on merits on the representation of the petitioner.

4. The writ petition is allowed.