

(2012) 10 AHC CK 0115
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 52623 of 2012

Chandan Kumar Yadav

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 226

Citation : (2012) 10 AHC CK 0115

Hon'ble Judges : A.P.Sahi, J

Final Decision : Dismissed

Judgement

A.P. Sahi, J.

Heard learned counsel for the petitioner and Sri Vivek Verma for the respondent Mahatma Gandhi Kashi Vidyapeeth University, Varanasi.

The petitioner admittedly entered on the rolls of the College Kunwar Singh Post Graduate College, Ballia, in M.A. Political Science course after having deposited his fee on 24.9.2012.

The Students Union Elections have been notified and one of the ineligibility conditions imposed by the University, which has been incorporated in the Notification, is that a student of any course under the SelfFinanced Scheme shall be ineligible to contest the elections. The petitioner is a student of such a course and he has come up questioning the correctness of the Ordinances framed by the University namely Ordinance 3.1 of Chapter XIII as well as the condition No.2 of the Notification dated 1.10.2012 on the ground that there is no rational basis for eliminating a student under the Selffinanced Scheme, who is also pursuing a regular course.

Learned counsel for the petitioner contends that the course of M.A. in Political Science is a full regular course of 2 years and, therefore, in the absence of any such prohibition either in the report and recommendations of Lyngdoh Committee or in the order passed by the Apex Court in reference thereto, the

University cannot on its own impose such an irrational condition. He submits that the petitioner is also pursuing a regular course may be under the selffinancing Scheme, which is for more than a year and in the aforesaid circumstances, the total exclusion or prohibition of such students is arbitrary and is violative of Articles 14 and 19 of the Constitution of India.

Sri Vivek Verma replying to the said submissions, contends that the right to contest a Students Union Election is a legal right under the Ordinance, and is not a fundamental right. He, therefore, submits that unless the petitioner himself is eligible, he cannot be heard to say that the Ordinances are ultra vires to PartIII of the Constitution of the India or for that matter any other provision that might be applicable to the controversy.

Sri Verma has invited the attention of the Court to the fee deposit receipt of the petitioner dated 24.9.2012 to contend that the petitioner has been admitted in the course on 24.9.2012 and is a new entrant who has not completed 75% attendance in any course. The petitioner also claims to have deposited the Students Union contribution as a fee. Sri Verma contends that the petitioner would be ineligible in view of the Ordinance 4 (A) 5, which is reproduced hereunder:

Having considered the aforesaid submissions, the contention of Sri Verma is correct that the petitioner has been admitted very recently and he does not have 75% attendance so as to make him an eligible candidate for the purpose of contesting the elections.

In the aforesaid circumstances, there is no legally enforceable right available to the petitioner to invoke the extra ordinary jurisdiction under Article 226 of the Constitution of India. The petitioner being ineligible, the argument advanced by the learned counsel for the petitioner may be considered in some other case with better facts.

The petition is, therefore, dismissed leaving the question of law open as raised by the learned counsel for the petitioner.