

(2012) 09 AHC CK 0132
In the Allahabad High Court
Case No : Special Appeal No. 1414 of 2012

Committee of Management Dharam Samaj Society Inter
College and Sanskrit Pathshala and Another

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 2(13), 49(n), 68

Citation : (2012) 09 AHC CK 0132

Hon'ble Judges : Satya Poot Mehrotra, J and Het Singh Yadav, J

Final Decision : Dismissed

Judgement

Het Singh Yadav, J.

The present Special Appeal has been filed against the Judgement dated 13.07.2012 passed by the learned Single Judge, whereby the learned Single Judge dismissed the Writ Petition being Civil Misc. Writ Petition No.32763 of 2012, filed by the Petitionerappellants herein.

It appears that the matter regarding approval of the constitution of the Committee of Management of Dharm Samaj Degree College, Aligarh (hereinafter also referred to as "the Institution in question") was considered by the ViceChancellor, Dr. Bhim Rao Amedkar University, Agra (Respondent No.2). The Vice Chancellor by the Order dated 18.06.2012 declined to grant approval to the Committee of Management allegedly constituted by the Petitionerappellants herein. The Vice Chancellor further directed the Deputy Registrar, Firms, Societies and Chits, Agra to decide the dispute regarding membership of the Society, and thereafter, on the basis of certified list of members of the Society, get the election of the Committee of Management of the Institution in question held in his presence. The Vice Chancellor further recommended that in order to properly manage the Institution in question during the intervening period, the Controller be appointed by the Government.

The Petitionerappellants herein thereupon filed the aforesaid Civil Misc. Writ Petition No.32763 of 2012, interalia, praying for quashing the said Order dated 18.06.2012 passed by the Vice Chancellor (Respondent No.2).

The learned Single Judge dismissed the said Writ Petition on the ground that the Petitionerappellants could file a Reference before the Chancellor of the University under Section 68 of the U.P. State Universities Act, 1973 (hereinafter also referred to as "the 1973 Act").

The Petitionerappellants have thereupon filed the present Special Appeal.

We have heard Sri Prabhakar Awashi, learned counsel for the Petitionerappellants, the learned Standing Counsel appearing for the Respondent No.1, Sri Shailendra, learned counsel for the Respondent No.2, and Sri M. K. Gupta, learned counsel for the Respondent No.3, and perused the record.

It is submitted by Sri Prabhakar Awashi, learned counsel for the Petitionerappellants that the learned Single Judge erred in dismissing the Writ Petition on the ground of availability of remedy of Reference under Section 68 of the 1973 Act, and that the learned Single Judge ought to have considered the correctness of the Order dated 18.06.2012 passed by the Vice Chancellor (Respondent No.2).

We have considered the submissions made by Sri Prabhakar Awasthi, learned counsel for the Petitionerappellants, and we find ourselves unable to accept the same.

Clause (13) of Section 2 of the 1973 Act provides as under:

"2. Definitions. In this Act, unless the context otherwise requires:

(1).....

(2).....

(3).....

(4).....

(5).....

(6).....

(7).....

(7).....

(8).....

(9).....

(10).....

(11).....

(12)....

(13)."management" in relation to an affiliated or associated college, means the managing committee or other body charged with managing the affairs of that college and recognized as such by the University:

[Provided that in relation to any such college maintained by a Municipal Board or a Nagar Mahapalika, the expression "management" means the education committee of such Board or Mahapalika as the case may be and the expression "Head of the Management" means the chairman of such committee;]

(14).....

(15)....

(16)....

(17).....

(18)....

(19)....

(20).....

(21)....."

From the above provision, it is evident that the Managing Committee or other body charged with managing the affairs of an affiliated or associated College is required to be recognized as such by the University.

Section 49 of the 1973 Act deals with Statutes. Clause (n) of Section 49 lays down as follows:

"49. Statutes. Subject to the provisions of this Act, the Statutes may provide for any matter relating to the University and shall in particular, provide for

(a).....

(b).....

(c).....

(d).....

(e).....

(f).....

(g).....

(h).....

(i).....

(j).....

(k).....

(l).....

(m).....

(n) the recognition of the management of any affiliated or associated college;

(o).....

(p).....

(q).....

(r).....

(s)....."

Thus, Statutes may provide for the recognition of the management of any affiliated or associated college.

Clause (f) of Statute 12.05 of the First Statutes of the University of Agra provides as under:

"12.05. The constitution of the Management of every college shall provide that [(Sections 37 and 49 (m))]

(a).....

(b).....

(c).....

(cc)....

(d).....

(e).....

(f) if any question arises whether any person has been duly chosen as, or is entitled to be a member or officebearer of the Management or whether the Management is legally constituted, the decision of the ViceChancellor shall be final;

(g).....

(h)....."

Thus, the Vice Chancellor in exercise of power under the relevant provisions of the 1973 Act read with the relevant Statutes, has passed the Order dated 18.06.2012.

Section 68 of the 1973 Act makes provision for Reference to the Chancellor. The said Section is reproduced below:

"68. Reference to the Chancellor. If any question arises whether any person has

been duly elected or appointed as, or is entitled to be, member of any authority or other body of the University, or whether any decision of any authority or officer of the University [(including any question as to the validity of a Statute, Ordinance or Regulation, not being a Statute or Ordinance made or approved by the State Government or by the Chancellor)] is in conformity with this Act or the Statutes or the ordinance made thereunder, the matter shall be referred to the Chancellor and the decision of the Chancellor thereon shall be final:

Provided that no reference under this section shall be made

(a) more than three months after the date when the question could have been raised for the first time;

(b) by any person other than an authority or office of the University or a person aggrieved:

Provided further that the Chancellor may in exceptional circumstances

(a) act suo motu or entertain a reference after the expiry of the period mentioned in the preceding proviso;

(b) where the matter referred relates to a dispute about the election and the eligibility of the person so elected is in doubt, pass such orders of stay as he thinks just and expedient;"

Thus, Section 68, interalia, provides that if any question arises whether any decision of any authority or officer of the University is in conformity with the 1973 Act or the Statutes or the ordinance made thereunder, the matter shall be referred to the Chancellor and the decision of the Chancellor thereon shall be final.

It is thus evident that against the Order dated 18.06.2012 passed by the Vice Chancellor(Respondent No.2) in exercise of power under the 1973 Act, Reference lies before the Chancellor under Section 68 of the 1973 Act.

The learned Single Judge has therefore, rightly dismissed the Writ Petition, filed by the Petitionersappellants, on the ground that the Petitionerappellants can file Reference before the Chancellor of the University under Section 68 of the 1973 Act.

We do not find any error in the Judgement dated 13.07.2012 passed by the learned Single Judge. The Special Appeal filed by the Petitionerappellants lacks merits, and the same is liable to be dismissed.

The Special Appeal is accordingly, dismissed.

However, on the facts and in the circumstances of the case, there will be no order as to costs.