
(1996) 01 AHC CK 0131
In the Allahabad High Court
Case No : C.M.W.P. No. 9343 of 1981

Dr. B.S. Goel

APPELLANT

Vs

Vice-Chancellor of Meerut University and Others

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Citation : (1996) 1 UPLBEC 428

Hon'ble Judges : Paritosh K. Mukherjee, J; Jagdish Bhalla, J

Bench : Division Bench

Advocate : P.K. Jain and S.C. Budhwar, for the Appellant; S.C. and A.K. Yog, for the Respondent

Final Decision : Allowed

Judgement

Paritosh K. Mukherjee, J.—In the present writ petition, the writ Petitioner, Dr. B.S. Goel, Inter alia, challenges the order passed by the Vice-Chancellor, Meerut University, Meerut, dated 21st February, 1981, set out in Annexure 18 to the writ petition.

2. It is really unfortunate that when this writ petition was moved before Hon'ble S.D. Agarwala. J., on 21.9.81, his Lordship having heard learned Counsel for the parties was of the opinion that no case had been made out for grant of an interim order and rejected the prayer for stay which included the consequential benefit in favour of a third person, Arun Kumar, who has not been made Respondent in this writ petition.

3. From the plain reading of Annexure 18, it appears that Prof. R.L. Singh, Vice-Chancellor of Meerut University purported to review his earlier order by factually disapproving the termination of the services of the Petitioner.

4. Although Sri Salil Kumar Rai, holding brief of Sri A.K. Yog led by Sri A.K. Yog, appearing for the Respondent University, however, submitted that this order cannot be construed for grant of disapproval of the termination order and initially a preliminary objection has been raised by the learned Advocate, Sri A.K. Yog,

for the Respondent University that since Arun Kumar has not been impleaded as a party in the writ petition, the writ petition is not maintainable in its present form.

5. In reply to this, Mr. Budhwar, learned Counsel appearing for the Petitioner, submitted that an illegal order has been passed by the Vice-Chancellor and pursuant to the said order, the University caused injustice to the Petitioner by appointing a third party.

6. Be that as it may, Mr. Budhwar submits two points before us for our consideration. Firstly, he contended that the Vice-Chancellor not being a quasi-judicial authority and having no express power of review, cannot exercise such power of review which is persona designate.

7. In the next place, it is submitted that even if for the sake of argument it is contended that the Vice-Chancellor has inherent power of review, which was not, it was incumbent upon the Vice-Chancellor not to review his earlier order without affording reasonable opportunity to the Petitioner which too has not been done.

8. In support of his first contention, he has relied upon a judgment of the Supreme Court in the case of Dr (Smt.) Kuntesh Gupta Vs. Management of Hindu Kanya Mahavidyalaya, Sitapur (U.P.) and Others, , wherein the Supreme Court, inter alia, observed:

It is now well-established that a quasi-Judicial authority cannot review its own order unless the power of review is expressly conferred on it by the statute under which it derives its jurisdiction. The Vice-Chancellor in considering the question of approval of an order of dismissal of the Principal, acts as a quasi-Judicial authority. It is not disputed that the provisions of the U.P. State Universities Act, 1973 or of the statutes of the University do not confer any power of review on the Vice-Chancellor. In the circumstances, it must be held that the Vice-Chancellor acted wholly without jurisdiction in reviewing her order dated January 24, 1987 by her order dated March 7, 1987. The said order of the Vice-Chancellor dated March 7, 1987 was a nullity.

9. It appears from the impugned order dated 21st February, 1981 that the Vice-Chancellor observed as follows:

I have gone through the case. the facts of the case are as under:

1. Dr. B.S. Goel was sanctioned leave without pay from 9.2.1979 to 31.8.79 vide Resolution No. 3 dated 3.3.1979 of the Managing Committee.

2. Actually, Dr. B.S. Goel proceeded on leave on Feb. 8, 1979 for certain reasons. The contention of Dr. B.S. Goel is that he be treated on leave for one year w.e.f. Feb. 1979. I find that even if the leave was sanctioned for one year w.e.f. Feb. 8, 1979, it has expired long before, i.e., on Feb. 7, 1980.

* * * * *

4 On 20.1.1981, the University sent him a cable on his Basrah address and had also sent a copy in confirmation of the above cable that he should Join M.M. College. Modinagar (Ghaziabad) immediately and latest by 15th Feb. 1981 positively failing which the Vice-Chancellor will approve the termination proceedings in his case.

Dr. B.S. Goel has not responded even to the above communication of the University. In view of the facts mentioned above, I hereby approve the relevant resolution of the Managing Committee terminating the services of Dr. B.S. Goel under Statute 17.06 (3) of the Meerut University First Statutes, 1977.

10. Although earlier by a letter, Annexure 16 to the writ petition, the said Vice-Chancellor disapproved the decision to terminate the services of Dr. Goel although the Vice-Chancellor had observed that since the said Dr. B.S. Goel had gone abroad to Iraq on Government assignment with the consent of the college authorities and the leave was sanctioned to him, his services could not be terminated.

11. Thus, in our view, by the subsequent order dated 21st February, 1981 the Vice-Chancellor has practically reviewed his earlier order and for which there is no express power given under the U.P. State Universities Act, 1973.

12. This Court is not unmindful about the consequential relief in favour of the Petitioner but this Court proposes to set aside the impugned order on the sole ground that the Vice-Chancellor being a quasi-judicial authority cannot sit over his earlier judgment and that too without complying with the principles of natural justice.

13. The writ petition is allowed. The impugned order dated 21st February, 1981 set out in Annexure 18 to the writ petition is accordingly set aside and quashed. The Respondent Managing Committee is directed to pay consequential benefit including back wages after taking into consideration that the Petitioner has worked else-where during the 15 years and pass appropriate order for his suitable appointment without disturbing Arun Kumar within three months from the date of the production of a certified copy of this order.