
(2005) 03 GUJ CK 0038

In the Gujarat High Court

Case No : Special Civil Application No. 4952 of 2003

D.R. Korat

APPELLANT

Vs

Bhavnagar University

RESPONDENT

Date of Decision : 11-03-2005

Acts Referred:

Citation : (2005) 03 GUJ CK 0038

Hon'ble Judges : R.S. Garg, J;R.R. Tripathi, J

Bench : Division Bench

Advocate : T.R. Mishra, for the Appellant; J.R. Nanavati and V.M. Pancholi, Assistant Government Pleader, for the Respondent

Judgement

R.S. Garg, J.—Heard Mr.T.R. Mishra for the petitioner, Mr.J.R. Nanavati, learned senior counsel for respondent and Mr.V.M. Pancholi, learned Assistant Government Pleader for respondent no.2.

2. By this writ application the petitioner had sought relief that this Court should interpret the statute/ provisions of the Act and declare that the principals of all the colleges affiliated to Bhavnagar University are teachers for the purpose of election to the executive council so that they may also contest election. The petitioner also relied upon the judgement dated 27th June 2002 passed in Special Civil Application No.1678 of 2002 in the matter of D.R. Korat Vs. Bhavnagar University.

3. It is the case of the petitioner that the elections were to be held immediately and if the petitioner's nomination is not accepted his rights would be seriously and prejudicially affected.

4. In the matter of Special Civil Application No.1678 of 2002 this Court while disposing of the Special Civil Application observed that it would be open to the present petitioner to approach appropriate authority of the State Government for seeking determination of the dispute raised by the petitioner in the said Special Civil Application. Indisputably, thereafter, the petitioner made a representation to

the State Government on which certain recommendations were made by the State Government to the University authorities. The executive council of the University finding the recommendations to be unpalatable made a request to the State Government to withdraw the recommendations and simply require the University to reconsider the entire issue. It appears from the records that the State Government conceded to the request of the University and thereafter made yet another recommendation to the University. This time absolute discretion was left in favour of the University. The University thereafter taking into consideration the totality of the circumstances by its order dated 08.05.2003 observed that in accordance with the definition of the word, "teacher" it would not be possible to include "principal" within the ambit of the definition of "teacher".

5. It is to be seen that the elections in the present matter were to take effect in the year 2002 and by this time elections have already taken place and the term of the council of three years has already come to an end. Mr.Mishra, learned counsel for the petitioner submitted that the question is of wider importance warranting interpretation by this Court.

6. In the considered opinion of this Court the High Court is not required to decide the academic issues especially when no relief can be granted in favour of the petitioner. We are of the considered opinion that as no relief can be granted to the petitioner, High Court is not required to decide the issue. On merits we refuse to interfere in the matter. However, we grant liberty to the petitioner to challenge the order dated 08.05.2003 in accordance with law before appropriate forum. The Special Civil Application, stands disposed of with the liberty aforesaid. Rule is discharged. There shall be no order as to costs.