

(1991) 04 KAR CK 0047
In the Karnataka High Court
Case No : Writ Petition No. 19767 of 1990

Dr. Shankar Rao

APPELLANT

Vs

Gulbarga University

RESPONDENT

Date of Decision : 05-04-1991

Acts Referred:

Karnataka State Universities Act, 1976 — Section 26 (1) (2) (d) (iii), 28

Citation : (1991) ILR (Kar) 3232 : (1991) 2 KarLJ 112

Hon'ble Judges : N.Y. Hanumanthappa, J

Bench : Single Bench

Advocate : G.S. Visweswara, for the Appellant; P.K. Bhat, for N.B. Bhat, for R-1 and R-2, for the Respondent

Final Decision : Dismissed

Judgement

Hanumanthappa, J.—The point for consideration in this Writ Petition is: whether the person appointed as a Chairman of a Faculty can continue till he retires and his appointment can be reviewed and the Syndicate can cancel his appointment.

2. The facts of the case herein are: that earlier, petitioner was a Lecturer in Hindi in the Karnataka Arts College, Dharwar. In the year 1979 was appointed as Reader in Hindi in Gulbarga University. The Gulbarga University by exercising its powers conferred u/s 26(1)(2)(d)(iii) appointed this petitioner as a Chairman of the Post Graduate Studies in Hindi Department. Relevant Section reads as follows:-

"The Chairman shall be appointed by the Syndicate for a specified term provided that the Syndicate shall be competent to vary the term after review from time to time."

As per Clause (iii) of the said Section, it is clear that a Chairman shall be appointed by the Syndicate for a specific term provided that the Syndicate shall be competent to vary the term after review from time to time. From this, two things are clear viz., (1) Competent Authority to appoint a person as the

Chairman is the Syndicate for a particular period (2) Again the Syndicate is competent to vary the term after review from time to time.

3. Syndicate in its Resolution dated 21-7-1990 at Item No.3 relieved the petitioner as Chairman from the Department on perusing the report submitted by the Sub-Committee.

4. Challenging the same, petitioner has preferred this Writ Petition contending that-

(1) His removal as Chairman penal in nature;

(2) Act of his removal a mala fide one as there is long standing enmity between himself and one Sri. Rathod regarding the appointment and the matter went up to Supreme Court;

(3) Syndicate committed mistake in placing reliance on the complaints or so-called statements made against the petitioner without disclosing the same to the petitioner and placing reliance on such statements, such persons should have been examined in presence of the petitioner;

(4) Order in question is penal in nature as it attaches stigma to his service;

(5) The so-called allegation made by Kum. Ganga Khamitkar and one Jana Bai as one sided. As such, no importance can be attached to the Statement/complaints and the show-cause notice issued at Annexure-B.

For these reasons, Sri G.S. Visweswara, learned Counsel for the petitioner submits that the Resolution dated 21-7-1990 at Item No. 3 be quashed; if necessary a De novo enquiry be held on the allegations; till then the petitioner be permitted to continue as Chairman of the faculty in question.

As an answer to the petition averments, Sri B.K. Bhat, learned Counsel for the respondent filed his detailed statement, of objection, wherein he has denied the contentions of the petitioner. He submits that none of the requests of the petitioner deserves to be considered. According to him, charges levelled against the petitioner are serious in nature. Apart from mis appropriation of funds, extracted money from students, including behaving with his own girl students in an indecent manner and he even tried to molest them or attempted to outrage the modesty of those girls. Thirdly, he contends that as per Clause (iii) of Sub-section (3) of Section 28, Syndicate has got competency to review the appointment. When it received complaint, Syndicate constituted a Sub-Committee on the basis of the allegations made. A show-cause notice was issued to the petitioner including furnishing of copies of the complaint to the petitioner. In turn, the petitioner appeared before the Committee and gave his explanation at Annexure-C. On the said allegations and explanation now the University is contemplating to hold disciplinary proceedings as mentioned in its report. For these reasons, Sri B.K. Bhat submits that there are no merits in any one of the contentions raised by the petitioner.

B.K. Bhat further submits the post of a Chairman in a Faculty is the highest post, the person who is holding such a post shall not only command confidence of the students, but the students in turn should respect him. That means, it involved both character and integrity apart from proficiency in the subject. For these reasons, Sri Bhat submits that WP be dismissed.

After hearing both sides, I am of the view that without saying anything on the allegations and counter allegations made which are referred to in the report alleged to have been submitted by the Sub-Committee of the Syndicate and the explanation submitted, this Writ Petition can be disposed of on a short ground viz., that in view of Clause (iii) Sub-section (d) of Section 28 of the Karnataka State Universities Act 1976, appointment of a person as a Chairman of a Faculty for a particular term and to review the said term by the Syndicate is a clear case of pleasure of the Syndicate. Thus, "doctrine of pleasure" is applied in this case. Merely because a person has been appointed for a particular term or term not mentioned in the appointment order, that does not mean Syndicate has no authority to review the appointment and if necessary to cancel the said appointment as it has done in the instant case. In appointments of this type, a person who has been appointed to a particular post shall continue as long as he commands pleasure of the Appointing Authority viz., the Syndicate of the University. When the said Appointing Authority withdraws the pleasure, such an officer cannot assert that by virtue of his earlier appointment, he shall be continued till the reversion or retirement. Apart from this, it is not as if the Syndicate removed him on vague allegations. In fact, the respondent filed its statement of objections, reasons for removal have been mentioned at paras 4 and 5 of the statement of objection which are extracted herein:-

"Contentions of the petitioner that the action of the University is violative of the principles of natural justice is misconceived and baseless. There were several allegations of serious nature against the petitioner from the teachers of the Department and from the students. Some of the girl students of the Department had given written complaint to the Vice Chancellor of the respondent University that the petitioner was trying to exploit them by taking advantage of their helpless situation. Respondent/University by its letter dated 14-9-1989 (Annexure-B) called upon the petitioner to explain his stand. He was also supplied with the copies of the complaints. Syndicate by its resolution dated 26-8-1989 appointed a Sub-Committee to go into the complaints/allegation. Petitioner submitted his reply dated 11-10-1989 (Annexure-C) to the said letter explaining his stand regarding the complaints. Syndicate-sub-committee met on 13-9-1989, 16-9-1989, 26-9-1989, 5-10-1989, 6-10-1989, 7-10-1989, 11-10-1989, 26-12-1989, 1-1-1990, 9-1-1990 in connection with the inquiry. Some of the complainants were also examined. Petitioner who appeared before the Inquiry Committee explained his stand regarding the statements made by the complainants. Thereafter the Sub-Committee submitted its report dated 13-2-1990 to the Syndicate, In the said report, the Sub-Committee has clearly stated that a prima facie case exists in respect of Charge Nos. 3, 12, 15, 22 and

23 which pertain to demanding money from students and trying to molest two lady students. The report of the Sub-Committee was considered by the Syndicate and Syndicate by its resolution No. 2 dated 10-6-1990 decided to provide one more opportunity to the petitioner to submit explanation to the Committee. Accordingly, he was asked to appear before the Committee on 2-7-1990 by this respondent's letter dated 25-6-1990. Petitioner appeared before the Committee and submitted his further explanation. The explanation was considered by the Sub-Committee. The Sub-Committee by its further report dated 23-7-1990 confirmed the findings in the earlier report dated 13-2-1990. Petitioner has deliberately suppressed all these material facts from this Hon'ble Court. As submitted above, all reasonable opportunity was given to the petitioner before passing the impugned resolution.

Petitioner's contention regarding non-holding of a regular enquiry is misconceived. Withdrawal of the appointment of the petitioner as the Chairman of the Department of Studies in Hindi is not a penalty nor the impugned action of the University has otherwise affected petitioner's service conditions. The removal from Chairmanship is only an administrative action without involving any civil consequences. The impugned action was taken by the Syndicate in exercise of its power u/s 28(2)(d)(iii) which does not contemplate the holding of a regular enquiry as under the KCS (CCA) Rules, 1957. Syndicate has considered the reports submitted by the Sub-Committee and has passed the impugned resolution dated 18-8-1990 (Annexure-D) in the best interest of the proper administration of the Department of Studies in Hindi. Under the Act Syndicate is only required to review before varying the term as removing an incumbent from the Chairmanship the requirement of "review" was fully met in this case as Syndicate had appointed a sub-committee to go into the allegations."

Hence, there is no substance in any one of the contentions raised by the petitioner. Accordingly this Writ Petition dismissed. All other contentions are left open.

In case of any removal from the post of Chairman of Post Graduate faculty of Hindi, shall not be considered in any way as a stigma attached to the post which he is holding as a Reader. If any independent and separate enquiry is held on the allegations made against him, it is needless to say, the same shall always be subject to compliance of principles of Natural Justice. No costs.