

(1988) 08 AHC CK 0072

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petitions No's. 14313 and 14314 of 1988

Dr. Suresh Chandra Choubey

APPELLANT

Vs

The Chancellor Kashi Vidyapith and Others

RESPONDENT

Date of Decision : 08-08-1988

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 68

Citation : (1989) 1 AWC 279

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : Faujdar Rai, for the Appellant;

Final Decision : Disposed Of

Judgement

B.L. Yadav, J.—These two petitions namely writ petition No. 14314 of 1988 (for short I petition) and writ petition No. 14313 of 1988 (for short II petition) involve similar questions of law and facts hence it is convenient to dispose of them by a common judgment.

2. In the first petition order dated 11th May, 1998 and in the II petition order dated 20-5-1988 are sought to be quashed. These are the orders purporting to have been passed by the Chancellor in exercise of powers u/s 68 of the U.P. State Universities Act (for short the Act) rejecting the application for grant of interim stay moved by the Petitioners, on the ground that there was no provision under the Act to grant interim relief pending disposal of the representation.

3. Learned Counsel for the Petitioner urged that there was provision to grant interim stay u/s 68 of the Act. He placed reliance on Managing Committee D.A.V. Degree College Muzaffarnagar v. Chancellor Meerut University 1986 UP LB EC 112.

4. In order to appreciate the arguments advanced on behalf of Petitioners it is better to have few facts of the case. In the first petition the Petitioner being M.A., Ph.D. in Sanskrit made application for the post of lecturer in Sanskrit department

in Kashi Vidyapith Varanasi. Under para 6 of the I petition it is stated that the Petitioner was recommended by the Selection Committee for the appointment as temporary lecturer in Sanskrit department (Annexure 3) and appointment letter was issued to the Petitioner, appointment was approved by the Executive Council, Petitioner submitted his joining report on 26-5-85, According to the Petitioner he made an application to the Vice Chancellor that he has been selected for the appointment on the permanent post but the Vice Chancellor on 30-(?)-85 ordered that the Petitioner has been declared suitable by the Selection Committee and he is entitled to the post when permanent vacancy occurs but the Petitioner's services were terminated by the notice dated 30-6-87 (Annexure 7). The Petitioner filed writ petition in this Court which was dismissed on the ground that Petitioner failed to avail the alternative remedy of representation u/s 68 of the Act consequently Petitioner moved representation u/s 68 of the Act and made an application for interim stay which has been rejected by the impugned orders. In the second writ petition also against the order dated 30-6-87 terminating the services of the Petitioner as lecturer, the Petitioner made representation u/s 68 of the Act on the direction of this Court in the writ petition filed by the Petitioner.

5. Provisions of Section 68 of the Act have been quoted in the case of Committee of Management D.A.V. Degree College Muzaffarnagar (supra). u/s 68 the provisions are that against any decision of any authority or officer of the University where the order is not in conformity with the Act, Ordinance or Statutes, the matter may be referred to the Chancellor. It's first proviso provides that suo moto reference can be entertained even after expiry of the period required under proviso 1 to Section 68 of the Act. II proviso "b" is to the following effect:

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 .

6. It is better to refer the observations in Thompson v. Gould and Co. 1910 AC 409 at p. 420 as follows:

It is a strong thing to read into an Act of Parliament words which are not there and in the absence of clear necessity it is a wrong thing to do.

In Vickers' Sons and Maxim Ltd. v. Evans 1910 AC 444 at p. 445 it was held as follows:

We are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself.

7. I am of the view that any Statute has to be interpreted keeping in view the words that have been used and the provisions that have been made. The provisions of Statute should be construed in conformity with the legislative intent and public policy. Interpretation, I am of the considered opinion,

must be purposive interpretation, consistent with the language employed by the legislature to express its aims and objects. In the present case a number of disputes can be decided by the authorities of the University or by the Vice-Chancellor and against such orders reference has to be made to the Chancellor and the interim stay might be prayed for but the legislature has wisely made provision that only in respect of dispute about the election, and the eligibility of the person so elected is in doubt, the Chancellor may pass stay, orders. The intention of the legislature appears to be that in respect of other matters, the Chancellor is not empowered to pass interim stay.

8. So far as the case Managing Committee D.A.V. Degree College Muzaffarnagar v. Chancellor Meerut University 1986 UP LB EC 112 relied upon by the learned Counsel for the Petitioner, is concerned, it was a case based on entirely different facts, in as much as that was a case pertaining to the election of Managing Committee of the college where the matter referred was relating to a dispute about the election or the eligibility of the person so elected. But in the instant cases the dispute was about the appointment and termination of services of the Petitioners. In this connection it is necessary to point out that before citing a particular case, a Counsel, being an officer of the Courts and belonging to the noble profession of law must ascertain whether the case is worth citing and whether it is applicable on all fours and whether the facts of case relied upon and that of the case in which decision is being cited are similar.

9. In view of the premises aforesaid as there was no provision for granting any interim stay by the Chancellor u/s 68 (sixty eight) of the Act in respect of the orders pertaining to the termination and appointment of lecturers and u/s 68 (sixty eight) of the Act the Chancellor is empowered to grant interim stay only in the cases where the matter referred relates to a dispute about the election, and the eligibility of the person so elected is in doubt, impugned orders do not suffer from any error, much less an error, apparent on the face of the record, because vide impugned orders interim stay has been refused on the ground of there being no provision for grant of interim stay u/s 68 (sixty eight) of the Act in such matters. Applying priori and posteriori reasonings I find these petitions devoid of merits consequently they are dismissed.