
(2003) 08 DEL CK 0026
In the Delhi High Court
Case No : CW No. 5462 of 2003

Gajender Singh

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 29-08-2003

Acts Referred:

Citation : (2003) 6 AD 131 : (2004) 109 DLT 486

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : S.K. Puri, Sr, Kaadambri and Gaurav Puri, for the Appellant; S.K. Luthra, for Respondent Nos. 1 and 2, Anurag Mathur and Mr S.H. Mathur, for the Respondent

Judgement

Badar Durrez Ahmed, J.—This matter is taken up for final disposal with the consent of the parties who are all present.

2. The petitioner is a student of the respondent no.3 (College of Vocational Studies), University of Delhi, studying in the second year of the Office Management and Secretarial Practice Course. The petition pertains to the ongoing elections of the Delhi University Students' Union. The petitioner is seeking election as a Member of the Central Council. The petitioner filed the nomination papers for the elections which are to be held on 05.09.2003. He filed the nomination papers with regard to the membership of the Central Council of the Delhi University Students' Union on 21.08.2003. The scrutiny of nomination papers was done on 22.08.2003 at 3.00 p.m. It is the petitioner's allegation that at the time of scrutiny, though the petitioner's nomination papers were not rejected, it was however, decided that the nomination papers be placed before the Students Advisory Committee for ascertaining as to whether the petitioner could be allowed to contest the elections or not. It is further alleged by the petitioner that Prof. Surinder Singh, who was the Convenor of the Union Advisory Committee, informed the petitioner that he cannot allow or disallow the petitioner for contesting the elections as the petitioner had not secured 50%

marks in his annual examination of the first year and, Therefore, the whole question would also be placed before the Students Advisory Committee for their decision.

3. Thereafter, it appears that the petitioner, feeling that his nomination papers may be rejected on the ground that he does not fulfill the norms imposed by the respondent no.3 of having secured at least 50 % marks in the annual examination, filed a representation with the Chief Election Officer, Delhi University Students Elections: 2003-2004. On the basis of that representation received by the Chief Election Officer, the latter sent a reply to the principal of respondent no.3 as under:-

"The Principal

College of Vocational Studies

Sheikh Sarai

New Delhi

Dear Sir,

Please find enclosed herewith in Original a representation addressed to me received from Shri Gajender Singh, student of your college. In the said representation he had stated that his nomination for the post of Central Councillor of your college has not been accepted due to percentage problem.

In this connection, I wish to inform you that the following disqualifications only have been laid down in the Delhi University Students' Union Constitution. The relevant clause of the said Constitution is quoted below for your reference:

"9. Disqualification for Student Members of the Central Council.

No student shall be entitled to be a member of the Central Council, if

(i) he is not a member of the Union, or

(ii) he has completed the age of 26 years, if he is a student in day classes or 30 years, if he is a student in the evening classes, at the beginning of the 1st term of year in which he is likely to become a member of the Central Council, or

(iii) he has completed 7 years in University or

(iv) he has been convicted a criminal offence including moral turpitude; or

(v) he has been punished by the University/College for an act which is coercive in nature and constitute a threat to life and property; or

(vi) he has been found guilty of, and punished for the use of unfair means in any of the examinations of a College, University or Board.

In the light of the above, please take necessary action as you may deem fit and proper in the circumstances of the case. A copy of this letter is also being handed

over to Shri Gajender Singh."

4. Learned counsel appearing on behalf of the respondent nos. 1 & 2 submits that he is merely reiterating the stand taken in the aforesaid letter of 23.08.2003 issued by the Chief Election Officer. Insofar as the learned counsel for the respondent no.3 is concerned, he submitted that the norm of attaining at least 50% marks has been prescribed by the college itself, i.e., respondent no.3. According to him, as per the college prospectus, the Students Union of the college is, inter alia, comprised of two Central Councillors. However, a specific condition imposed with regard to qualification for being member of the college Students Union is that the candidate should have at least 50% marks in the examination preceding the elections. According to him, if the petitioner is allowed to contest for the Central Council of the Delhi University Students' Union and in the event he is elected, it would lead to an anomalous situation whereby, under the college prospectus, he would not be entitled to be a member of Students' Union, although he is a member of the Central Council.

5. There is an apparent conflict between the disqualifications prescribed by the Constitution of the Delhi University Students' Union and the requirements of the college prospectus. However, the present election is in respect of the Central Council of the Delhi University Students' Union. Clause 5 of the DUSU Constitution provides that the Vice-Chancellor of the University shall be the Patron of the Union and it is the duty of the Patron to take all necessary steps to ensure that the Union functions in accordance with the Constitution. Clause 8 (1) (ii) prescribes that two members are to be elected directly to the Central Council by simple majority from each college. It is in respect of this that the petitioner has filed his nomination papers. The disqualification for being a member of the Central Council is prescribed in clause 9 which reads as under:-

"9. Disqualification for Student Members of the Central Council.

No student shall be entitled to be a member of the Central Council, if

(i) he is not a member of the Union, or

(ii) he has completed the age of 26 years, if he is a student in day classes or 30 years, if he is a student in the evening classes, at the beginning of the first term of the year in which he is likely to become a member of the Central Council, or

(iii) he has completed 7 years in University; or

(iv) he has been convicted of a criminal offence including moral turpitude; or

(v) he has been punished by the University/College for an act which is coercive in nature and constitutes a threat to life and property; or

(vi) he has been found guilty of, and punished for the use of unfair means in any of the examinations of a College, University or Board.

Explanation:

A mere warning issued against a student will not be deemed to be a punishment for the purpose of this clause."

6. Clause 16 provides for the elections. Clause 16 (i) provides that the Patron will appoint, every year, a Chief Election Officer and other Election Officers who shall arrange to conduct the elections of the officer-bearers and the members of the Central Council of the Union for that year in various Colleges and Institutions of the University. This provision makes it amply clear that the conduct of the elections is the responsibility of the Chief Election Officer and other Election Officers appointed by the Patron (i.e., the Vice-Chancellor). The election process has already begun and polling is to take place on 05.09.2003. Courts have, on several occasions indicated that they do not interfere in the electoral process once it is set in motion. The Chief Election Officer as well as the Electoral Officers have been enjoined with the duty to conduct the elections. It is for them to come to a decision during the process of the elections. Accordingly, I refrain from interfering with the electoral process and leave it to the Chief Election Officer and to the concerned Electoral Officers to decide the issue of whether the petitioner is eligible to contest the elections or not. The Chief Election Officer will take a decision in this matter as expeditiously as possible, preferably within a day. In case the petitioner is permitted to contest the elections, then obviously he would have no grievance. On the one hand if he is not permitted to contest the elections, then he may have a remedy after the elections are over. At this stage, while the election process is on, I am not inclined to interfere with the process.

With these observations, the writ petition is disposed of.

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