
(1998) 08 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9422 of 1998

Kartar Singh and Others

APPELLANT

Vs

Maharishi Dayanand University and Another

RESPONDENT

Date of Decision : 06-08-1998

Acts Referred:

Maharshi Dayanand University Act, 1975 — Section 38

Citation : AIR 1999 P&H 241 : (1998) 4 RCR(Civil) 277

Hon'ble Judges : V.K. Bali, J;B. Rai, J

Bench : Division Bench

Advocate : R.S. Rana, for the Appellant; Ashok Aggarwal and Vikrant Sharma, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Bali, J.—Kartar Singh and 20 others, who are students of the evening college and are also serving in various departments/ institutions. Through present petition filed by them under Article 226 of the Constitution of India, seek issuance of writ in the nature of certiorari so as to quash impugned order Annexure P-3 vide which University College (Evening) at Rohtak has been ordered to be closed with immediate effect by styling Resolution no. 42 of the Executive Council passed in its 137th meeting held on June 11, 1998 to be wholly illegal and without jurisdiction.

2. The facts, as culled out from the petition, reveal that petitioners are students of BA-I and BA-II of the evening college of Maharishi Dayanand University, Rohtak. It is the case of petitioners that the college had been in existence for the past 36 years and had been catering to the needs of students of weaker section of the society, who, because of financial constraints, could not attend the morning courses. The University by its decision has now ordered the closure of the college, thus, jeopardising the career of the students. It is so pleaded and argued by learned counsel for the petitioners that decision to close the evening classes has been taken without issuing any notice to the college authorities and

without following the procedure as contemplated in the University Calendar. Section 38, in its Clauses 28, 30 and 31, clearly lays down that a notice is mandatory. Apart from this, Sub-clause 12(d) of the Section aforesaid lays down that even if the courses are to be discontinued, they are to be done gradually so as not to affect the career of the students. It is further the case of petitioners that the Academic Council has been held to be principal academic body which is to exercise supervision over academic policies of the University and in the instant case, Academic Council was by-passed and the Executive Council took the decision on the basis of a report which was submitted barely within fifteen days of its setting up and which report is stated to be based on distorted facts and the college authorities were not taken into confidence. In view of what has happened, career of more than 400 students is at stake.

3. Pursuant to notice issued by this Court respondents have entered defence and filed written statement.

4. Before the matter might proceed any further, it requires to be mentioned that on the ex parte representation made by the petitioners, this Court had stayed operation of the impugned order on June 29, 1998. Thereafter, the University moved an application for vacation of stay which came up for hearing before V.K. Jhanji and M.L. Singhal, JJ. on June 2, 1998 when stay was vacated. The order aforesaid reads thus:--

"On going through the grounds stated in the application for vacating stay granted by this Court on 29-6-1998, we are of the view that the stay granted deserves to be vacated. It is hereby vacated.

Registrar, Shrikant Walqad, who is present in the Court has, however, undertaken on behalf of the University that the petitioners, who are 21 in number, shall be admitted forthwith to the Distance Education Course and the University would not charge fee more than what they would have paid for studying in the evening college. The Registrar has also undertaken that in case need be, special classes will be held for the petitioners on Saturdays and Sundays so that they do not suffer in their studies. The aforesaid undertaking given by the Registrar shall also be taken to be direction by this Court."

5. Petitioners have filed replication to the written statement filed on behalf of the respondents and in turn, respondents have filed rejoinder to the replication filed by the petitioners.

6. We have heard learned counsel for the parties and gone through their pleadings as also supporting documents. In the context of the averments made in the written statement, we, however feel that this petition has no merit and, therefore, deserves to be dismissed. In the written statement filed on behalf of respondents 1 and 2, it has been pleaded that some salient features of the case have not been brought to the notice of this Court. The Executive Council of the University is the competent body to decide and maintain the University college under Statute 38(1-a) of the Maharishi Dayanand University, Act, 1975. The

statute reads as under:

"The University shall establish and maintain and recognise for admission to its privileges such colleges as may be decided upon by the Executive Council from time to time."

7. The Executive Council is also competent to consider closure/merger of the University maintained college. The University Evening College was the maintained college governed by the University Act and Statutes. University Evening College was started to cater for the requirement of employed persons who were unable to attend regular classes during day time. At that time, facilities of Distance Education were not so readily available. Over a period of time, it has been seen that this college had primarily enrolled those students who were not employed in any salaried job and, in fact, had enrolled and admitted even those who could not seek any admission in other institutions because of low academic standard on account of their low achievements. As on the day, the Directorate of Distance Education of the University arranges education for those people who otherwise cannot seek admission on regular basis in almost all disciplines. With the closing down of 10+1 class this year and 10+2 class next year, University College (Morning) will be in a position to admit more students in under-graduate classes. There is also an economic crunch in the University which demands strict financial discipline and control on restricted resources which are at the disposal of the University. The University need to cut out its expenditure on matters which can otherwise be managed. In addition to above, the performance of the University Evening College was extremely unsatisfactory and the college was showing most poor results for the last many years. During 1997-98, out of total number of 284, only 141 candidates could pass the examination which was one of the poorest result in the University. Moreover, the purpose for which the evening college was established is not being achieved. As per record. 95% of the candidates are not in employment and are in the age group of 16-22 years. In fact, only 18 students of the evening college are in employment and as per the admission forms of the petitioners, it has been revealed that there are only three petitioners in employment. With the closing down of 10+1 class this year and 10+2 class next year, University College (Morning) would be in a position to admit more students in under-graduate classes which is more suitable place for this age group students and those people who otherwise cannot seek admission on regular basis, can seek admission in Directorate of Distance Education which arranges education in, almost all the disciplines. Therefore, it was held highly uneconomical to run a separate college for only 5% of total strength which comes out roughly less than 20 especially in an economic crunch in the University which demands strict financial discipline and control on restricted resources which are at the disposal of the University. Under these circumstances, the Vice-Chancellor of the University constituted a Committee of five senior-teachers to examine as to whether there was need to continue the University Evening College keeping in view the following aspects in particular:

"(a) Details and categories of students admitted by the University Evening College during the last three years.

(b) Capacity and capability of our Directorate of Distance Education and the University Morning College to absorb the students of the Evening College.

(c) Financial savings that will accrue from the closing down of the University Evening College.

(d) Disposal of the University enrolled teachers working with the Evening College."

8. The Executive Council of the University, vide Resolution No. 42 in its meeting held on June 11, 1998 thoroughly examined the aforesaid agenda and resolved to close the University Evening College and merge it into the University College (Morning) and in terms of this resolution, the University issued office order dated June 11, 1998, relevant extract of which reads thus:

"As per Executive Council Resolution No. 42 dated 11-6-1998 the University College (Evening), Rohtak, is closed and merged with University College (Morning), Rohtak with immediate effect and all the teaching staff and non-teaching staff including the Principal, University Evening College, Rohtak, are hereby directed to report to the Principal, University College (Morning), Rohtak. The students (presently in the University Evening College, Rohtak) interested to take admission in University College (Morning) are directed to contact the Principal College (Morning), Rohtak and those interested in Distance Education, are directed to contact the Director, Directorate of Distance Education, MDU, Rohtak."

9. In terms of the Resolution No. 42 passed by the Executive Council and subsequent to the issuance of office order dated June 11, 1998, all the teachers/staff working in the University College (Evening) submitted their joining reports to the Principal, University College (Morning) unconditionally. As on July 9, 1998, one hundred candidates of the Evening College had already taken admission in University College (Morning) as per report of the Principal whereas so far only two candidates had purchased the admission forms for admission in the Directorate of Distance Education but had not deposited fee etc. Thus, action of the respondent-University in merging the University Evening College into that of University College (Morning), Rohtak, has been justified on the grounds, referred to above and it is further the case of University that proper procedure was adopted in this case. In obedience to the interim order dated July 2, 1998, it is the case of respondents, petitioners, who are 21 in number, have been admitted to the Distance Education and the University would not charge any fee more than what they were to pay for studying in the Evening College. The Registrar would make arrangements for special classes for the petitioners on Saturdays and Sundays so that they do not suffer in their studies.

10. We find no merit whatsoever in the contention of learned counsel for the

petitioner that proper procedure was not followed. The Executive Council, a body competent to take the decision of the kind taken in the present case, had passed the impugned order and that too on a report that came to be submitted by five senior teachers of the University. There was no need at all to hear the petitioners inasmuch as by merging the Evening College with the Morning College, no right of theirs has been infringed. It is only if their rights were to be adversely affected inasmuch as they were asked to discontinue with their studies, a necessity would have arisen to hear them in the matter.

11. Finding no merit in this petition, we dismiss the same in limine, leaving, however, the parties to bear their own costs.