

(1987) 12 AHC CK 0049
In the Allahabad High Court
Case No : Civil Misc. Writ No. 23057 of 1987

Managing Committee, D.A.V. Degree College and Others	APPELLANT
Vs	
Chancellor, Meerut University, (Governor) and Others	RESPONDENT

Date of Decision : 10-12-1987

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh State Universities Act, 1973 — Section 68

Citation : (1988) 1 AWC 471

Hon'ble Judges : Ravi S. Dhavan, J

Bench : Single Bench

Advocate : R.P. Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, J.—This Court has heard learned Counsel for the Petitioner and the learned Standing Counsel for the State of Uttar Pradesh.

2. An order conveyed to the Petitioner from the Secretary to the Governor/Chancellor, U.P. aggrieves the Petitioner and hence this petition under Article 226 of the Constitution of India. This Order is No. E-8489/G.S. (11-G.S. (68)/87-XVI dated November 18, 1987).

3. The Vice-Chancellor of the Meerut University in a matter arising out of the constitution of the Managing Committee of the D.A.V. Degree College, Muzaffarnagar passed an order dated 13th August 1987. This Court at present is making no comments upon the order passed by Vice-Chancellor. This order of the Vice-Chancellor was impugned earlier by a writ petition presented before a Bench comprising of Hon"ble B.N. Sapru, J. and Hon"ble Ravi S. Dhavan, J. On the presentation of the writ petition before the Bench the High Court referred the Petitioner to take recourse to the alternative remedy u/s 68 of the U.P. State Universities Act, 1973 hereinafter referred to as the Act. In pursuance of the order of the Bench of this Court, a representation was filed before the learned

Chancellor, and this representation is pending.

4. Along with its representation, the Petitioner Managing Committee sought u/s 68 of the Act, aforesaid, a prayer for an ad interim relief. This prayer for an ad interim relief was not rejected on merits, but not entertained on the ground that there is no provision under the Act, aforesaid, to grant an ad interim relief. This is what was conveyed to the Petitioner by the Secretary of the learned Chancellor by communication of 18th November 1987, aforesaid. This order is impugned in the present writ petition.

5. The Petitioner seeks interference by this Court to the effect that an ad interim relief be granted. This Court is not inclined to interfere in the present writ petition by granting a stay order but has no hesitation in saying that the communication conveyed to the Petitioner dated November 18, 1987 is in total ignorance of the provisions of Section 68 of the Act, aforesaid. While the Petitioner's representation seeking an ad interim relief from the learned Chancellor was being processed in the secretariat one only had to see the provisions of Section 68 of the Act, to see in print that there is a discretion vested in the learned Chancellor to consider the prayer for an ad interim relief. It is apparent that the communication delivered to the Petitioner on November 18, 1987 overlooks the provision under which the Petitioner was seeking a stay order. The matter, it appears was never placed before the learned Chancellor.

6. For the benefit of the Chancellor's secretariat the provision is being reproduced and the portion which permits exercise of the discretion for granting an ad interim relief is being underlined:

68. Reference to the Chancellor-If any question arises whether any person has been duly elected or appointed as, or is entitled to be, member of any authority or other body of the University, or whether any decision of any authority or officer of the University (including any question as to the validity of a Statute, Ordinance or Regulation, not being a Statute or Ordinance made or approved by the State Government or by the Chancellor) is in conformity with this Act or the Statutes or the Ordinance made thereunder the matter shall be referred to the Chancellor and the decision of the Chancellor thereon shall be final.

Provided that no reference under this Section shall be made-

(a) more than three months after the date when the question could have been raised for the first time ;

(b) by any person other than an authority or officer of the University or a person aggrieved ;

(c) act suo moto or entertain a reference after the expiry of the period mentioned in the preceding proviso ;

(d) 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.

7. As this is the only issue in the present writ petition the Court has already expressed that it does not propose to interfere on merits of the matter or grant a stay order, as this is the discretion of the learned Chancellor and it is yet to be exercised. The representation of the Petitioner alongwith the prayer seeking an ad interim relief should now be laid before the learned Chancellor so that he may exercise his discretion as he may deem fit and proper in the circumstances of the case.

8. On 24 August, 1987 a Bench of this Court aforesaid had expressed that the merits of the matter should be decided as early as possible. Today, the merits of the matter remain pending and in so far as the application seeking an interim relief is concerned, the Petitioner has been told that there is no provision upon which it may be granted. Learned Standing Counsel for the State of U.P. is directed that a copy of this order be arranged to be laid before the learned Chancellor. Learned Standing Counsel will use his agency to impress upon the secretariat of the learned Chancellor that this matter be laid in pursuance of Clause (b) of the second proviso to Section 68 of the Act for the requisite consideration of the learned Chancellor, before the year is out. In so far as the merits of the matter is concerned, learned Standing Counsel will bring to the notice of the secretariat of the learned Chancellor the order of the Bench dt. 24 August, 1987 by which it was desired that the representation of the Petitioner may be considered on merits as early as possible.

9. With these observations this writ petition is decided.

10. A certified copy of this order be given to the learned Counsel for the parties within one week on payment of requisite charges.