
(2003) 09 AHC CK 0287
In the Allahabad High Court
Case No : C.M.W.P. No. 41161 of 2003

Manjula Kumar

APPELLANT

Vs

Chancellor, Rohilkhand University and Others

RESPONDENT

Date of Decision : 15-09-2003

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 68

Citation : (2003) 5 AWC 4447

Hon'ble Judges : U. Pandey, J;M. Katju, J

Bench : Division Bench

Advocate : G.K. Singh, V.K. Singh and S.N. Singh, for the Appellant; Neeraj Tripathi, Shashi Nandan, Govind Saran and S.C., for the Respondent

Judgement

M. Katju and U. Pandey, JJ.—The Petitioner has challenged the order of the Chancellor dated 5.9.2003 vide Annexure--21. Heard counsel for the parties. Admittedly a reference u/s 68 of the U.P. State Universities Act is pending before the Chancellor. We have repeatedly held in several Division Bench decisions that the Chancellor has got power to pass an interim order pending final decision in a reference u/s 68 as that is inherent in Section 68 of the aforesaid Act.

2. We are surprised to note that the Chancellor in the impugned order dated 5.9.2003 (Annexure--21 to the writ petition) has observed that he has no power to grant an interim order. We are constrained to observe that even the Chancellor is not above the law. When we have declared the law repeatedly in several Division Bench decisions e.g. P. G. Chaudhari v. Chancellor 1987 UPLBEC 720, Writ Petition No. 48670--02; Committee of Management Sarvodaya P. G. College, Jhansi v. D.I.O.S., decided on 27.8.2003, etc. (Vide Annexure--21 to the petition) etc. it was not open to the Chancellor to persist in his wholly illegal stand that he has no power to grant an interim order. This is a country ruled by law and even the Chancellor has to abide by the law. As the Supreme Court observed "be you howsoever so high the law is above you." We, therefore, regret to note that such a high authority as the Chancellor is persisting in taking an illegal stand by

stating that he has no power to grant an interim order, when we have repeatedly held that he does.

3. Whether, the Chancellor grants an interim order or not is totally within his discretion, though of course such discretion, like any other discretion, must be exercised judiciously and not arbitrarily, but it is nevertheless a matter within his discretion and we are not directing him to exercise his discretion one way or another. We, therefore, set aside the order of the Chancellor dated 5.9.2003 to the extent, he has said that he has no power to grant an interim order and we fix the matter before the Chancellor on 29th September, 2003 for disposing off the applications for interim orders. The Chancellor will pass his order after hearing the parties concerned. Since the parties are present before us no separate notices need be sent to them. Petition is disposed of accordingly. The Chancellor is also requested to dispose of the reference u/s 68 expeditiously in accordance with law.