
(1982) 06 KAR CK 0019
In the Karnataka High Court
Case No : W.P. 4118/82

N. Thippanna

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 11-06-1982

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka State Universities Act, 1976 — Section 21

Citation : (1982) 2 KarLJ 313

Hon'ble Judges : K. S. Puttaswamy, J

Judgement

1. An advocate of this Court practising in the city of Bellary who is the petitioner, is espousing the cause of a large number of graduates residing in the territorial area of the newly established Gulbarga University (hereinafter referred to as the "University").

2. Prior to 24-5-1980, the Karnataka University, with its headquarters at Dharwar, initially founded by the erstwhile State of Bombay, under an enactment called the Karnataka University Act, 1949 (Bombay Act 20 of 1949) but came to be governed by an uniform Act, called the Karnataka State Universities Act, 1976 (Kar. Act 28 of 1976) (hereinafter referred to as the "Act"), exercised jurisdiction over the revenue districts of Belgaum, Bellary, Bidar, Bijapur, Dharwar, Gulbarga, North Kanara and Raichur (vide S. 3 (b) of the Act). On 24-5-1980 the Governor of Karnataka, promulgated the Karnataka State Universities (Amendment) Ordinance, 1980 (Kar. Ordinance No. 4 of 1980) later replaced by the Kar. State Universities (Amendment) Act, 1980 (Kar. Act No. 25 of 1980), inter alia providing for the establishment of two more Universities in the State, one of them called "the Gulbarga University" with its headquarters at Gulbarga to exercise jurisdiction over the revenue districts of Bellary, Bidar, Gulbarga and Raichur with effect from 10-9-1980.

3. The Act inter alia provides for the constitution of an authority called "Senate" consisting of nominated members by virtue of their office and elected members

(vide S. 21 of the Act). Sub sec. (20) of S. 21 of the Act provides for even elected representative one each representing Law: Engineering, Medicine, Commerce and three representing other than the above (hereinafter referred to as general Constituency). Sub sec, (21) of S. 21 provides for one woman registered graduate to be elected by the registered graduates.

4. Some time in January 1976, the Vice Chancellor of the Karnataka University had framed statutes relating to elections to the authorities of the University (hereinafter referred to as "the Statutes"). Under the said statutes, the Registrar of the said University in 1980 had prepared electoral rolls one of them being graduates of general Constituency, for the Districts of Gulbarga, Bidar, Bellary and Raichur, which will hereafter be referred to as the "old electoral roll". In that roll there were 1067, 411. 1230 and 755 registered graduates for the districts of Gulbarga, Bidar, Bellary and Raichur respectively. The petitioner finds his place from Bellary at SI. No. 595.

5. Under the directions of the Vice-Chancellor of the University, its Registrar by Notfn. No. GUG/ELN/11/81-82 dt. 27-4-1981 (Annexure C) called for applications from graduates residing in the revenue districts of Gulbarga, Bidar, Bellary and Raichur for being enrolled as registered graduates for the preparation of the list of voters for election to the University Senate on or before the date specified therein which was extended from time to time in pursuance of the said notification, the petitioner and several others made applications for enrolment on pay- ment of prescribed fee. Notwithstanding the making of his application for registration, the petitioner on 9-7-1971 also addressed a letter (Annexure D) to the Registrar to automatically adopt the old electoral rolls for all Constituencies, But, the Registrar, without acceding to the same, sometime in 1981, published the electoral roll of graduates in subjects other than Law, Engineering, Medicine and Commerce and another electoral roll of women registered graduates which will hereafter be referred to as the new electoral rolls.

6. In accordance with the decision of the Vice-Chancellor of the University, its Registrar by Notfn.No. GUG/ADM/FLN-1/81-82 (Annexure-R4)dt. 7-1-82 issued the calendar of events for election to the Senate from the various constituencies appointing various dates. In response to the same, twenty persons have filed their nominations from the general constituency.

7. On 28-1-1982, the petitioner presented this petition under Art, 226 of the Constitution impleading the State of Karnataka as respondent No. 1, the Chancellor, the Vice Chancellor and the Registrar of the University as respondents 2 to 4 respectively challenging the validity of the electoral rolls for general and women constituencies (Annexures E and F) and seeking for stay of the elections scheduled to be held on 7-2-1982. On 1 2 1982 Bopanna, J., ordered notice on the main and the interim prayer made by the petitioner and directed it to be posted on 5-2 1982 to consider the interim prayer, on which day Kulkarni, J., rejected the interim prayer made by the petitioner. But in W.A. No. 208 of 1982 filed by the petitioner, a Division Bench of this Court by its interim order dated

8-2-1982 and the final order dated 19-2-1982, directed that the results of election held on 7-2-1982 should be withheld. Hence, the results of elections to the general and women constituencies have not so far been declared. But, the results of the other constituencies the validity of which had not been challenged in this writ petition, have been declared.

8. According to the petitioner, the University in preparing the new electoral rolls, should not have omitted the names of registered graduates found in the old electoral rolls except of those that were dead and should have only added those that were entitled to be added. On this fundamental premise, the petitioner has highlighted the large scale omissions from all the four districts, in particular from the district of Bellary. He has therefore sought for quashing the electoral rolls and all steps taken thereto and for a mandamus to prepare valid electoral rolls and hold fresh elections.

9. In resisting the petition, respondents 2 to 4 have urged that on the establishment of a new University, they were bound to prepare fresh electoral rolls, for which purpose, the procedure followed by them was the proper and legal procedure. On this basis, these respondents claim that only those that made applications for registration alone are entitled to be registered.

10. While justifying their action on merits, respondents 2 to 4 have also urged, that the petitioner who voluntarily made his application for registration, got himself registered and did not contest the elections, cannot challenge the electoral rolls and the elections held thereto. Lastly, these respondents have urged, that having regard to the conduct of the petitioner, acquiescence and delay and the effect of the order on candidates that are not impleaded, this is a fit case in which this Court should decline to exercise its extraordinary jurisdiction.

11. One Sri Rajendra Patil, a candidate who has come on record on an application made by him as respondent 3, has filed a separate return supporting respondents 2 to 4.

12. Sri V. Krishnamurthy, learned counsel for the petitioner, has contended that the new electoral rolls prepared by the University, omitting a very large number of registered graduates found in the old electoral rolls, is not in conformity with the Act, the statutes and the general principles for preparation of electoral rolls and are void in law. In support of his contention, Sri Murthy has strongly relied on the ruling of the Supreme Court in the Chief Commr. of Ajmer v. Radhey Shyam, AIR 1957 SC 304 and Bar Council of Delhi v. Surjeeth Singh, AIR 1980 SC 1612.

13. Sri Muralidhar Rao, learned counsel for respondents 2 to 4 in justifying the new electoral rolls urged more than one ground, which will be noticed and. dealt by me in due course. Sri U. Abdul Khader, learned High Court Government Pleader, appearing for respondent 1 and Sri. B.S. Ralkote, learned counsel for counsel for respondent 5 supported Sri Rao.

14. On and after its establishment, the University has not framed statutes regulating the preparation of electoral rolls and the conduct of elections to the Senate. Secondly, the Vice Chancellor exercising powers conferred on him by the proviso to sub-sec. (3) of S. 72 of the Act, inserted by the amending Act has not made modifications and adaptations to the statutes before the new electoral rolls were published or elections were held or even there after so far and therefore the said statutes by operation of sub-sec. (3) of the same section continue to be in force and govern as the statutes of the Gulbarga University. Lastly, the Act as amended, does not provide for continuance of the old electoral rolls as the electoral rolls of the new Gulbarga University.

15. Sri Murthy, in my opinion, rightly did not dispute the power of the University to prepare up to date fresh electoral rolls and hold elections on the basis of those rolls to the Senate. In my view, such a power is implicit in the very constitution and establishment of the new University under the Act.

16. An elector is a person who possesses qualification to vote. Under the statutes only graduates that are registered or registered graduates and not all graduates are eligible to vote. The preparation of a complete, accurate and an up-to-date list of voters or an electoral roll is the very basis or foundation on which only an election to a constituency can be held. Without a proper and valid electoral roll, elections cannot be legally held. In my opinion, what materially vitiates the electoral roll vitiates the entire election on the basis of such an electoral roll.

17. In *Radhe Shyam Dani's case*, AIR 1957 SC 304, a Constitution Bench of the Supreme Court had occasion to examine the validity of an electoral roll prepared for the Ajmer Municipality under the relevant law governing the same. An unanimous Court speaking through Bhagawati, J. (Sr) explained the importance of a proper electoral roll in these terms:

"It is of the essence of these elections that proper electoral rolls should be maintained and in order that a proper electoral roll should be maintained, it is necessary that, after the preparation of the electoral rolls opportunity should be given to the parties concerned to scrutinize whether the persons enrolled as electors possessed the requisite qualifications. Opportunity should also be given for the revision of the electoral roll and for the adjudication of claims to be enrolled therein and entertaining objections to such enrolment. Unless this is done, the entire obligation cast upon the authorities holding the elections is not discharged and the elections held on such imperfect electoral rolls would acquire no validity and would be liable to be challenged at the instance of the parties concerned. It was in our opinion therefore necessary for the Chief Commissioner to frame rules in this behalf and in so far as the rules which were thus framed omitted these provisions they were defective."

18. In *Bar Council's case*, AIR 1980 SC 1612, the Supreme Court on appeal from the Delhi High Court was considering the validity of an electoral roll of Delhi Bar Council, omitting as many as 2000 Advocates on the basis of an invalid Rule

framed by that Council with the approval of the Bar Council of India. In that case, the Supreme Court, following the dicta laid down in *Radhe Shyam Dani's* case, AIR 1957 SC 304, observed thus:

"9. We, therefore, hold that the impugned proviso to R. 3 (j) to the Delhi Bar Council Election Rules is ultra vires and invalid and the electoral roll prepared by the Delhi Bar Council on the basis of the same resulting in the exclusion of the names of about 2000 Advocates from the said roll was not valid in law. We are further of the opinion that the whole election was invalid on that account and it could be challenged as such in a writ petition. It was not a case of challenging the preparation of the electoral roll on the factual basis of wrong exclusion of a few names. For the said purpose R.4 occurring in Chapter I of the Bar Council of India Rules could come into play. But here, because of the invalidity of the Rules itself, the preparation of the electoral roll was completely vitiated a matter which cannot be put within the narrow limit of the said rule.

"10. The illegal preparation of the electoral roll by the Delhi Bar Council on the basis of the invalid proviso to R. 3 (j) goes to the very root of the matter and no election held on the basis of such an infirmity can be upheld. There is no question of the result being materially affected in such a case".

19. In my opinion, the above enunciation made by the Supreme Court is applicable to the preparation of any electoral roll, on the basis of which an election has to be held to any constituency. With this background, it is how necessary to examine the validity of the new electoral rolls prepared by the University.

20. In the old electoral roll of general constituency prepared by the Karnataka University for the Districts of Gulbarga, Bidar, Bellary and Raichur almost immediately before the establishment of the University which is conferred with the jurisdiction over the same territorial areas, there were 3463 registered graduates, the district wise break up being as hereunder: (a) Gulbarga-1067, (b) Bellary-1230, (c) Bidar-411, (d) Raichur-755.

But, in the new electoral roll of the general constituency published by the University in 1981, probably after one year more or even less, there are only 2156 registered graduates, the district wise break-up being as hereunder: (a) Gulbarga-1285+491-1778, (b) Bellary-72, (c) Bidar-377, (d) Raichur-139.

From the above figures, as many as 1307 persons found in the old electoral roll, do not find their place or are omitted. What is more telling is that for the District of Bellary, while there were 1230 registered graduates, there are only 72 graduates for that district in the new electoral roll. The position in respect of district of Raichur is somewhat similar to the position of Bellary. The swelling in the figures of Gulbarga district is also telling. The large scale omissions particularly from the districts of Bellary and Raichur, can even be justifiably stated that the University has sought to create rotten boroughs or pocket boroughs.

21. In the preparation of a new electoral roll, the persons that are dead by the time it is prepared, can be omitted and should be omitted can hardly be doubted. Any person who makes an application for registration before the appointed date and time if found eligible can also be added cannot also be doubted.

22. After all anybody with some knowledge of the educational progress in our country in general and in Karnataka in particular, can without hesitation state that a number of persons are conferred degrees every year in Science, Humanities, Engineering, Medicine, Law and many other subjects as also post-graduate degrees in those subjects. If anything, the tendency is on the increase in the number of graduates and it is hard or even impossible to believe that the number of registered graduates from the general constituency which stood at 3463 for the four districts some time in 1980 reduced itself to 2156 as found in the new electoral roll. Without any doubt, the new electoral rolls prepared by the University at any rate for the general constituency in the light of the principles stated by the Supreme Court is illegal and void and cannot be upheld.

23. I will now proceed to examine whether the electoral rolls are in conformity with the Act and the statutes and can be sustained or not.

24. Statute enjoin the Registrar of the University to maintain the electoral rolls of persons and bodies entitled to elect members to the authorities of the University showing the names and addresses of persons or bodies qualified to vote. The same statute directs the Registrar to maintain separate electoral rolls in respect of 9 constituencies referred to therein. The qualifications for voters and their registration in different constituencies are dealt in the two preceding statutes, namely, Statutes 3 and 4. On a combined reading of Statutes 3 and 4, only registered graduates are qualified to vote and can find their place in the electoral rolls of the University.

25. Statute No. 3 (1) provides for compulsory registration of graduates of the very University on his first graduation on payment of a sum of Rs. 10 to be paid along with the fees for his admission to the first degree at a convocation of the University either in person or in absentia. Proviso to statute No. 3 (1) enables a graduate of the very University that has not earlier enrolled, to enrol as a registered graduate.

26. Statute No. 3 (2) enables the graduates of other Universities established by law in India who are residents in the University area for a continuous period of not less than 2 years prior to the date of his application, to seek for registration on fulfilling the terms and conditions referred to in that statute. Statute No. 3 confers power on the Registrar to grant the application made by the applicant under cl. (2) of Statute 3 or reject the same.

27. Statute 3 (6) directs the Registrar to revise the electoral roll once in three years on a date to be appointed by the Vice-Chancellor who is also empowered to omit the names of deceased registered graduates.

28. Statute No. 4 provides for change of constituencies by registered graduates.

29. Statute No. 4 (4) on which elaborate arguments were addressed by both sides reads thus:

"4. Graduates who are enrolled at least sixty days prior to the date set for a receipt of nomination in respect of an election by any of the constituencies of Registered Graduates shall be eligible to participate in that election:

Provided that graduates who are en the Registered graduates rolls in the respective Universities on 24-9-1975, shall be included in the list of Registered graduates of the respective Universities and will be eligible to participate in the elections to be held for the constitution of the first Senate under the Ordinance and elections to be held under the respective enactments thereafter:

Provided further that graduates who will be registering under the provisions of Statutes No. 3 and 4 before 10-2-1976, shall also be eligible to participate in the said elections".

30. Sri Murthy urged that on a true construction of the first proviso to cl. (4) of Statute No. 4, all those graduates that had been registered by the Karnataka University in the revenue Districts of Gulbarga, Bidar, Bellary and Raichur, were automatically entitled to be continued as registered graduates of the new Gulbarga University except to the extent of omissions and additions that become accessory In law.

31. Sri Rao urged that the first proviso to Statute No. 4 (4) had no application and the action taken by the University was legal.

32. On 24-9-1975 the three Universities in the State, namely, Bangalore, Mysore and Karnataka Universities, were governed by three separate enactments made for their establishment and governance. On 24-9-1975 the three separate enactments were repealed and the uniform Act governing all the Universities was placed on the statute book.

33. The first proviso to Statute No. 4 (4) provides that graduates, who are on the registered graduates rolls of the respective Universities as on 23-9-1975 shall be included in the list of registered graduates and will be eligible to participate in the elections to be held for the constitution of the first Senate to be constituted under the uniform Act that came into force on 24-9-1975. The date 24-9-1975 is the very day on which the Governor promulgated the Kar. State Universities Ordinance, 1975 which was later replaced by the Amending Act.

34. Sri Murthy urged that the date 24-9-1975 occurring in the first proviso should be read as 10th Sept. 1980 on which day the Gulbarga University was established.

35. S. 18 of the Amending Act provides for the continuance of the earlier statutes, ordinances, regulations made by the Karnataka University as statutes, ordinances and regulations of the Gulbarga University till that University makes

fresh statutes, ordinances and regulations. Proviso to S. 18 of the Act empowers the Vice Chancellor to make such modification and adoption as are necessary to statutes, ordinances, regulations and rules made by the Karnataka University. By exercising the power conferred by the proviso, it was open to the Vice-Chancellor of the Gulbarga University, to make a modification in the Statutes and state that the figures 24-9-1975 shall be read as 10th Octr. 1980 which evidently has not been done by him. When the authority that is competent to make modifications and alterations to the Statutes of Karnataka University has not exercised that power and has not made modifications or alterations, this Court cannot arrogate to itself the powers of legislation conferred on the Vice-Chancellor and modify the statute and read it as suggested by Sri Murthy. Hence, I find it difficult to rewrite or modify the statute! But this conclusion does not necessarily mean that this Court is helpless to interpret the provisions of the Act and to give effect to the same.

36. Any inadvertent omission in the Act or the failure of the Vice-Chancellor to act and suitably amend the Statutes cannot be construed or made a ground to defeat the purposes, scheme and object of the Act. On the other hand, it is the bounded duty of the Court to give effect to the purposes, scheme and object of the Act by adopting a progressive interpretation that has now come to stay. In this connection, it is useful to recall the observation made by the Supreme Court in *State of Karnataka v. Hansa Corporation*, ILR 1980 (2) Kar. 1333 SC. In that case, the Supreme Court observed thus:

"13. There is always a presumption of constitutionality of a statute. If the language is rather not clear and precise as it ought to be, attempt of the Court is to ascertain the intention of the legislature and put that construction which would lean in favour of the constitutionality unless such construction is wholly untenable. However, where one has to look at a section not very well drafted but the object behind the legislation and the purpose of enacting the same is clearly discernible, the Court cannot hold its hand and blame the draft men and chart an easy course of striking down the statute. In such a situation the Court should be guided by a creative approach to ascertain what was intended to be done by the legislature in enacting the legislation and so construe it as to give force and life to the intention of the legislature. This is not charting any hazardous course but is amply borne out by an observation worth reproducing in extenso in *Seaford Court Estate Ltd v. Aster*, AIR 1972 SC 149. It reads as under:

"Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A judge, believing himself to be fettered by the supposed rule that he must look to the language and netting else, laments that the draftsmen have not provided for this or that,

or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give "force and life" to the intention of the legislature. That was clearly laid down [(3 Co. Rep. 7b) by the resolution of the judges Sir Roger Man Wood, C.B. and the other barons of the Exchequer in Heydon's case (1584) 3 Co. Rep. 7a and it is the safest guide today. Good practical advice on the subject was given about the same time by Plowden in his note (2 Plowd 465 to Eystone v. Stud (1574), 2 Plowd. 463. Put into homely metaphor it is this: A judge should ask himself the question, how if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases".

This view was re affirmed in Norman v. Norman, AIR 1977 SC 1703."

Bearing these principles, I propose to ascertain the purposes, scheme and object of the Act.

37. Immediately before the establishment of the Gulbarga University, the Karnataka University exercised jurisdiction over the revenue Districts of Gulbarga, Bidar, Bellary and Raichur. The Gulbarga University did not start on a clean slate overnight as it were but it really succeeded to the Karnataka University. The Act did not expect the Gulbarga University to undo all that had been done by the Karnataka University. On the other hand, the Act while establishing a new University, exclusively for the districts of Gulbarga, Bidar, Bellary and Raichur, expected that the University to work on the solid foundation already laid by the Karnataka University over those districts and make all round progress in imparting higher education over that area. In this view, it would be legitimate to hold that the Act and the statutes provide for the automatic adoption of the old electoral rolls of the Karnataka University by the new Gulbarga University. But, I must hasten to add that this conclusion does not mean that the Gulbarga University should mechanically adopt the same which necessarily means that it can omit those that are dead or add those persons that are entitled to be added and make all such corrections as are necessary to make it an up to date electoral roll.

38. Indisputably the new electoral rolls have not adopted the old electoral rolls to the extent that was required and has illegally omitted a large number of registered graduates that were legally entitled to be on these rolls. A serious illegality of this nature in the preparation of the electoral rolls cannot be overlooked on any ground and the impugned rolls are therefore liable to be

quashed. A fortiori, it follows that all steps taken thereto have to be declared as ineffective.

39. Sri Rao urged that the petitioner having made an application for registration, got his name registered, and who did not contest the elections, has no locus standi to challenge the electoral rolls and the elections. In support of his contention Sri Rao strongly relied on the observations of Bhagawati, J , at para 23 in S.P. Gupta v. President of India, AIR 1972 SC 149, or popularly called as Judges" case.

40. As noticed earlier, the petitioner, an Advocate of this Court is really espousing the cause of a large number of unregistered graduates who are entitled to be registered but have not been registered on which issue I have found in his favour. The fact that the petitioner filed an application by way of abundant caution, does not disentitle him to espouse a legitimate and well merited public cause. The ratio in Judges" case, far from supporting the case of Sri Rao, supports the case of the petitioner. Even the very opening sentence of para 23 on which strong reliance is placed by Sri Rao only cautions a judge to ascertain whether a member of the public is acting bona fide and not for personal gain or private profit or political motivation or other oblique considerations. In my view, the petitioner, an Advocate of this Court who had earlier been elected to the Senate of the Karnataka University, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. I, therefore, overrule this objection of Sri Rao.

41. Sri Rao has next contended that the persons that have filed their nominations who are necessary parties have not been impleaded as parties and the elections held have not been challenged and on that ground, this petition is liable to be dismissed.

42. When a person challenges the validity of an electoral roll, the one and the only necessary and proper party for such a challenge is the authority that prepares the electoral roll and no other. In such a case, the person that had filed his nomination is not necessary party. A non-challenge of the elections, the results of which have not been declared is also of no consequence. If the electoral roll is held to be invalid, what consequences will ensue from that has necessarily to ensue. In my view, the ratio in K.K. Shrivastava v. Bhupendra Kumar Jain, AIR 1977 SC 1703, relied on by Sri Rao referred to and distinguished in Bar Council"s case, does not bear on the point.

43. Sri Rao lastly contended that on grounds of delay and laches, this is a fit case in which this Court should decline to exercise its extra ordinary jurisdiction.

44. As noticed earlier, the petitioner has approached this Court before the poll was scheduled to be held and not immediately the steps were initiated for the preparation of the rolls. The fact that there is some avoidable delay and the order would result in avoidable costs to the University and others cannot be gainsaid. The illegality committed by the University dis-enfranchising a large

number of registered graduates is very serious and unconscionable. One cannot be blind to the fact that the illegality if not rectified at this initial stage, would perpetrate itself for all time to come and may cause greater damage to the fair name of the University itself. For these reasons, I cannot persuade myself to dismiss this petition on the ground of delay and laches.

45. Before preparing fresh electoral rolls it would be proper for the University to notify the proposal, invite representations, suggestions and objections and also applications for enrolment, consider them and publish the final electoral rolls as reflecting the position as on a particular" day. For the above purpose it is desirable to give wide publicity in such manner as the University decides.

46. Anyway, the preparation of the new electoral rolls and holding of elections on their basis even with all earnestness and expedition by all concerned, will undoubtedly take considerable time. Earlier I have noticed that the results of other constituencies like Law, Engineering, Medicine, Commerce and Teachers have already been declared. Before the preparation of the new electoral rolls and holding of fresh elections which necessarily will take considerable time, I do not see any justification for withholding the declaration of results for the constituencies of Graduates in subjects other than Law, Engineering, Medicine and Commerce and Women graduates and prevent those that are elected from those constituencies also from participating in the Senate of the University. Such a step does not in any way affect the interests of the petitioner who has no personal interest in the matter, but will definitely be in the interest of the smooth functioning of the administration of the University. I therefore deem it proper to permit the declaration of the results of the constituencies that have been ordered to be withheld by the order made by this Court in WA No. 208 of 1982.

47. In the light of my above discussion, I make the following declarations, orders and directions:

(i) I declare that all those registered graduates found in the electoral roll of the Karnataka University except those that are dead are automatically entitled to be included in the electoral rolls of the Gulbarga University.

(ii) I quash the electoral rolls of the graduates in subjects other than Law, Engineering, Medicine and Commerce 1981 (Annexure E) and the electoral roll of women registered graduates 1981 (Annexure-F).

(iii) I issue a writ in the nature of mandamus to respondents 3 and 4 to prepare fresh electoral rolls for the aforesaid constituencies and other constituencies in conformity with the declaration made in this order and law regulating the same with all such expedition as is possible in the circumstances and in any event within a period of six months from the date of receipt of this order and thereafter hold fresh elections to the several constituencies in accordance with law.

(iv) I direct respondents 3 and 4 to declare the results of elections of the constituencies of the Senate of Gulbarga University that have been withheld in

obedience to the interim and final order made by this Court in WA No. 208 of 1982 and permit the elected members to participate in the Senate till fresh elections are held and they are replaced by the newly elected members.

48. Rule issued is made absolute. But, in the circumstances of the case, I direct the parties to bear their own costs.

49. Let copies of this order be communicated to respondents 3 and 4 within 10 days from this day.