
(2008) 10 AHC CK 0058
In the Allahabad High Court
Case No : Writ Petition No. 1280 (S/B) of 2008

Naresh Chandra Gautam (Dr.)

APPELLANT

Vs

Narendra Deo Krishi Evam Prodyogik Vishwavidyalaya,
Kumarganj, Faizabad and others

RESPONDENT

Date of Decision : 01-10-2008

Acts Referred:

Citation : (2008) 10 AHC CK 0058

Hon'ble Judges : Devi Prasad Singh, J and V.D.Chaturvedi, J

Final Decision : Allowed

Judgement

Devi Prasad Singh and V. D. Chaturvedi, JJ.—Heard Sri Raghwendra Singh learned Counsel for the petitioner and Sri H.P. Gupta, learned Counsel for the respondents.

2. Counter affidavit filed today is taken on record.

3. The petitioner, who is Professor in the Narendra Deo Krishi Evam Prodyogik Vishwavidyalaya, Kumarganj, Faizabad has approached this Court under Article 226 of the Constitution of India assailing the impugned order of suspension dated 21.6.2008 contained in Annexure No. 2 to the writ petition on the ground that the order of suspension has been passed by the ViceChancellor who is not competent in view of the provisions contained in Section 9 of the Uttar Pradesh Krishi Evam Prodyogik Vishvidyalaya Adhiniyam, 1958. Subsection (3) of Section 9 of the Adhiniyam empowers the Chancellor of the University to suspend any such officer or teacher during the pendency or in contemplation of any inquiry referred to in subsection (2).

4. It has been submitted by the learned Counsel for the petitioner that it is the Board of the Management who has got powers to take appropriate decision for the purpose of suspension or disciplinary inquiry.

5. In the counter affidavit, the respondents have filed the resolution of a Committee which is said to have been constituted in pursuance of the order of

the Chancellor dated 19.10.2007 wherein it has been observed that appropriate action be taken by the ViceChancellor against the persons who are at fault. However, the Committee of the Board seems to have not taken any decision for suspension of the petitioner.

6. Learned Counsel for the petitioner relied upon the judgment of the Apex Court reported in AIR 1989 SC 1582: The Marathwada University v. Seshrao Balwant Rao Chavan, where it has been held that the power of ViceChancellor to regulate the work and conduct of the officer does not mean that the ViceChancellor can exercise the power conferred on the Board of the Management or the Chancellor. In the Para10 of the Marathwada's case (supra), the paramateria provision question has been considered by the Apex Court.

7. In view of the above, we are of the view that the impugned order of suspension which has been passed by the Vice Chancellor seems to an act of exceeding of jurisdiction.

8. This Court had categorically directed the respondents on 11.9.2008 to produce record but the record has not been produced today.

9. List on 18.10.2008 to enable the learned Counsel for the respondents to produce record.

10. Till the next date of listing the operation of the impugned order of suspension dated 21.6.2008 contained in Annexure No. 2 to the writ petition, shall remain stayed with liberty to proceed afresh in accordance with law.