
(2006) 06 BOM CK 0022
In the Bombay High Court
Case No : Writ Petition No. 2908 of 2006

Nayyar P. Siddiqui

APPELLANT

Vs

Sant Gadgebaba Amravati University

RESPONDENT

Date of Decision : 21-06-2006

Acts Referred:

Citation : (2007) 2 BomCR 238 : (2006) 5 MhLj 322 : (2006) 44 MhLj 322

Hon'ble Judges : R.C. Chavan, J;D.D. Sinha, J

Bench : Division Bench

Advocate : Zaka A. Haq, for the Appellant; D. Khade, Assistant Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

D.D. Sinha, J.—Rule is made returnable forthwith by consent of Parties.

2. Heard Mr. Haq, the learned Counsel for the petitioner and Mrs. Khade, the learned Counsel for the University.

3. This writ petition is directed against the communication dated 22-9-2005 issued by the Deputy Registrar, (Ph.D.Cell), Sant Gadgebaba Amaravati University, Amaravati whereby the petitioner was communicated that the treatise for the Degree of Doctor of Literature in the faculty of Arts was disapproved.

4. Mr. Haq, the learned Counsel for the petitioner has contended that the petitioner submitted her treatise for award of degree of Doctor of Literature on the topic "English and Urdu Poetry: A Parallel Literary Study" for the English subject in the faculty of Arts. The treatise was referred to the examiners appointed by the Board of Examination. The reports of Examiners were considered by the Board of Examination and Management Council and was recommended to the Academic Council for necessary decision. The Academic Council disapproved the treatise submitted by the petitioner for degree of Doctor of Literature in faculty of Arts. The said decision is impugned in the present writ petition.

5. Mr. Haq, the learned Counsel for the petitioner has submitted that the Board has appointed two examiners to consider the treatise submitted by the petitioner, namely Prof. Sattar and Prof. Mohammad Sharf-E-Alam. It is submitted that the report of Prof. Mohammad Sharf-E-Alam shows that treatise submitted by the petitioner is a research work of very high order and it would serve as valuable reference to the researchers. It is contended that Prof. Mohammad Sharf-E-Alam has strongly recommended the treatise for grant of approval, however, the report of Prof. A. Sattar is not in affirmative. It is submitted that Prof. A. Sattar considered the treatise with a bias mind which is evident from some personal comments about the work done by the petitioner made in his report. It is contended that since Prof. A. Sattar was prejudice against the petitioner he valued the treatise with bias mind and therefore, purposely, did not recommend it for approval.

6. Mr. Haq, the learned Counsel for the petitioner submitted that as per the procedure prescribed in clause 8 of Ordinance 111 of Amaravati University, the Examiners are required to submit their report to the Academic Council and upon receipt of the report the Academic Council needs to decide whether the treatise should be approved for the Degree of Doctor of Literature/Science. Clause 8 further stipulates that if Academic Council is of the opinion that the Treatise should be so approved, it shall report to the Executive Council accordingly. It is, therefore, contended that so far as clause 8 is concerned, there is no discretion conferred on the Academic Council to disapprove the treatise on the ground that one of the Examiners has not recommended the treatise. It is contended that in view of clause 8 once the Examiner submits the report to the Academic Council, the Academic Council has to approve the Treatise for conferment of either degree of Doctor of Literature or Science and is not competent to disapprove the treatise. The learned Counsel therefore, contended that in the instant case the communication impugned in view of the above referred position in law cannot be sustained.

7. Mrs. Khade the learned Counsel for the University, on the other hand, supported the impugned order and has contended that in the instant case the treatise of the petitioner was forwarded to the two Examiners namely Prof. Sattar and Prof. Mohammad Sharf-E-Alam. However, one of the Examiners Prof. Sattar did not recommend the treatise for approval. It is submitted that as per the procedure prescribed under clause 8 of Ordinance No. 111 the Academic Council has to decide about the grant of approval after receipt of report of Examiners. In the instant case, since one of the Examiners did not recommend the treatise for approval, the Academic Council decided not to approve the treatise and therefore, the Deputy Director issued the impugned communication dated 22-9-2005 whereby the decision of Academic Council was communicated to the petitioner,

8. We have given our anxious thought to the contentions canvassed by the respective Counsel. Perused the provisions of clause 8 of Ordinance No. 111 as

well as impugned communication. In the instant case, it is not in dispute that the treatise submitted by the petitioner was referred to two Examiners appointed by the Board of Examination. These Examiners considered the treatise and submitted their report. Prof. A. Sattar, who was one of the Examiners did not recommend the treatise of the petitioner for approval whereas the other Examiner Prof. Mohammad Sharf-E-Alam has recommended the treatise for approval. Perusal of clause 8 of the Ordinance makes it evident that as per the procedure, the Examiners are required to submit the report to the Academic Council which was submitted by the concerned Examiner in respect of the treatise of the petitioner. Sub-clause 8(b) contemplates that upon receipt of the report, the Academic Council shall decide whether the treatise should be approved for degree of Doctor of Literature/Science. The said clause further stipulates that if the Academic Council is of the opinion that the treatise should not be so approved, it shall report to the Executive Council accordingly. The plain reading of clause 8 of Ordinance would show that after receipt of report from the Examiners, it is for the Academic Council to consider and decide whether the treatise should be approved for grant of degree of Doctor of Literature or Science or not. In the instant case, since one of the Examiners did not recommend the treatise for approval, Academic Council decided not to grant approval to treatise of petitioner for awarding degree of Doctor of Literature. Looking to the scheme of clause 8 in our considered view the Academic Council was/is legally competent to decide whether the treatise should be approved or not and looking to the facts and circumstances of the present case, the decision taken by the Academic Council disapproving the treatise in our view does not suffer from lack of power or legal competency. The decision is very much sustainable in law and is consistent with the scheme of the provisions of clause 8.

9. The contentions of Mr. Haq, the learned Counsel for the petitioner, that the Academic Council has no discretion to decide as to whether the treatise should be approved or not after receipt of the reports of the Examiners as per clause 8 and is only required to approve the treatise is misconceived and devoid of substance. The language of sub-clause (b) of clause 8 is unambiguous and is capable of conveying objective to be achieved by the provisions of the said clause. Under the scheme of the said clause, it is evident that the Academic Council is vested with jurisdiction to exercise discretion as well as power to decide as to whether the treatise should be approved or disapproved on the basis of report received from the Examiner. We cannot turn the nelson's eye to the fact that the degree of Doctor of Literature is a prestigious degree and honour is conferred on the candidate for writing extraordinary and outstanding treatise and therefore, the decision of Academic Council for conferment of such degree must be based on careful evaluation of the reports of the Examiners. We also would like to express that unless the decision of the Academic Council is palpably wrong and suffers from malice, the court should be slow in showing indulgence. In the present case, looking to the descending opinion expressed by one of the Examiners, the decision of the Academic Council not to confer degree of Doctor

of Literature on the petitioner appears to be just and proper.

10. For the reasons stated hereinabove the petition suffers from lack of merits, same is, therefore, dismissed.