
(1990) 11 P&H CK 0123

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 148 of 1989

Panjab University and Another

APPELLANT

Vs

Tilak Raj Dogra

RESPONDENT

Date of Decision : 13-11-1990

Acts Referred:

Punjab University Act, 1947 — Section 21

Citation : (1991) 99 PLR 531

Hon'ble Judges : Gokal Chand Mital, J;G.S. Chahal, J

Bench : Division Bench

Advocate : G.C. Amar, for the Appellant; S.K. Goyal, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Chahal, J.—This regular second Appeal has been preferred by the appellant, the Panjab Univeisiry Chandigarh against the judgment ana decree dated 1. 10. 1988 passed by Shri R. N. Singal, Additional District Judge, Ambala, vide which, the first appeal brought by the University was dismissed as incompetent.

2. The brief facts leading to the litigation are that Tilak Raj Dogra, respondent, brought a suit for a diclaration Co the effect that his date of birth was 3-2-1929 and nut 13- 7- 1927, as entered in the Matriculation Certificase issued by the University He clamed to have appeared and passed the Matriculation Examination in March, 1955. The suit was contested by the University and was tried on the following issues :-

1. Whether the date of birth of the plaintiff is 3-2-1929?
2. Whether the suit of the plaintiff is time barred ?
3. Whether the Civil Courts at Ambala City have no jurisdiction to entertain and try the present suit ?
4. Whether the plaintiff is estopped from filing the present suit by his own act and conduct ?

5. Whether the suit in the present form is not maintainable ?
6. Whether the suit is bad for non-joinder and misjoinder of necessary parties ?
7. Relief.

On the basis of the findings recorded, the suit of the plaintiff was decreed. An appeal was then preferred by the University through its Registrar wherein a preliminary objection was taken that the appeal was not maintainable. The University was a body corporate and hence it required a resolution to file an appeal. In the absence of a resolution to file an appeal, it was not competent. This objection found favour with the learned Addl. District Judge who dismissed the appeal on the preliminary objection. The University has come up in second appeal against that judgment.

3. When the appeal came up for hearing in Single Bench before his lordships G. C. Mital, J., who made a reference that the matter be decided by a larger Bench. That is how this appeal has come up before us

4. The learned counsel for the appellant relies upon the provisions of Section 21 of the Punjab University Act (briefly the Act) in support of the argument that the Registrar was competent to present an appeal and he need not have further authorisation. Section 21 of the Act reads as :-

"Section 21. Registrar :-The Registrar shall be a whole time paid officer of the University appointed by the Senate. He shall be incharge of the administration of the University, acting under the immediate control of the Vice-Chancellor and shall represent the University in all legal proceedings except where the Senate otherwise resolves to the contrary "

The argument put forth is that the Registrar, being an authorised officer to represent the University in all proceedings, has also an authority to sue and thus, also present an appeal. The argument of the other side is to the effect that a corporate body must act only through a resolution to be passed by the Senate which is the Supreme body of the University. We are inclined to accept the argument of the learned counsel for the respondent.

5. In *The Vice-chancellor, Utkal University and Others Vs. S.K. Ghosh and Others*, , their lordships held as under:-

"Though an incorporated body like an University is a legal entity, has neither a living mind nor voice. It can only express its will in a formal way by a formal resolution and so can only act in its corporate capacity by resolutions properly considered, carried and duly recorded in the manner laid down by its Constitution."

6. In *Punjab Agricultural University v. Walia Brothers* (1969) 71 P. L. R. 257 a Vice-Chancellor, without any resolution of the Board of Management, had preferred an appeal in a civil suit. Section 12(2) of the Punjab Agricultural University Act provides that the Vice Chancellor shall exercise general control

over the affairs of the University and shall be responsible for the due maintenance of discipline at the University. Under item No. 27 Schedule Part B powers are given to the Vice Chancellor for sanctioning the expenditure with respect to civil suits instituted with the sanction of the Vice Chancellor. On the basis of these provisions, an argument was raised in that case that the Vice Chancellor was competent to present an appeal. This argument, however, was repelled and it was held that it was the Board of Management who was to decide by a resolution, whether the matter was to be taken in appeal or not. In our view, the same principle is attracted to the facts of the present case. The power to represent the University in legal proceedings will not clothe the Registrar with the power to decide, in what case or class of cases the litigation should be brought by the University and what unfavourable decisions should be taken to the appellate Court by the University. Section 21 of the Act, however, authorises the Registrar to represent the University in Court in cases in which the University through lawfully passed resolution of the Senate, decided to sue or to file an appeal. We thus, hold that the view adopted by the learned Additional District Judge was correct and no resolution having been passed by the University to prefer an appeal, the Registrar was not competent to present an appeal.

7. In the result, we hereby dismiss the appeal. There shall, however, be no order as to costs.