
(1999) 07 SC CK 0069
In the Supreme Court Of India
Case No : Civil Appeal No. 4009 Of 1999

Prem K. Khosla

APPELLANT

Vs

Abhilesh Kumar and Others

RESPONDENT

Date of Decision : 26-07-1999

Acts Referred:

Citation : (2000) 88 ECR 764 : (2001) 9 SCC 198

Hon'ble Judges : V. N. Khare, J; S. B. Majmudar, J; R. P. Sethi, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

S.B. Majmudar,; V.N. Khare and; R.P. Sethi, JJ.-Leave granted.

2. We have heard learned Senior Counsel, Mr Salve in support of the appeal and learned Attorney General for Respondents 6 and 11. Rest have remained served.

3. The grievance made by the appellant who was at the relevant time working as the Vice-Chancellor of H.P. Agricultural University, is to the effect that the Division Bench of the High Court while deciding a writ petition, without issuing notice to the appellant and giving any opportunity to him to have his say, has passed certain strong strictures and made observations and recommendations to the Chancellor of the University which have resulted in setting up an enquiry and passing of suspension order by the Chancellor of the University. It is this order of the High Court and the consequential orders of setting up an enquiry and the suspension of the appellant as Vice-Chancellor that have been brought in challenge in this appeal.

4. It is an admitted position that in the writ petition i.e. Civil Writ Petition No. 738 of 1998 which was moved by the writ petitioners who wanted compassionate admissions in the first year of Bachelor of Veterinary Science and Animal Husbandry Course of the University, the aforesaid observations, strictures and directions were issued against the appellant for which the appellant had no opportunity to have his say before the High Court as he was not noticed. Learned

Senior Counsel, Mr Salve vehemently submitted looking to the records of the case, this Court may even go into the questions whether these strictures and directions are justified on facts which are tried to be brought on record before us. We are not inclined to undertake this exercise for the simple reason that the Division Bench of the High Court had no opportunity to consider the case of the appellant after hearing him on notice. Therefore, only on this short ground and without expressing any opinion on the merits of the controversy between the parties, this appeal is allowed and the impugned judgment of the High Court so far as it affects the appellant including directing the appellant to pay the costs will stand quashed and set aside. The proceedings of Civil Writ Petition No. 738 of 1998 are remanded to the High Court for the limited purpose of considering the case of the appellant after issuing notice to him and after hearing the parties concerned, including learned counsel for the appellant. The High Court is requested to reconsider the question whether any case is made out for directing any action to be taken against the appellant by the Chancellor on the facts of the case in the aforesaid writ petition and in the light of the evidence that may be brought on record by the appellant and other contesting parties in connection with the aforesaid limited question to be examined in the remanded proceedings.

5. Learned Senior Counsel for the appellant voiced a grievance that even though this appeal is being allowed and the ex parte strictures, observations and directions against the appellant are being set aside, an apprehension lingers in the mind of the appellant that the dice may remain loaded against him. We do not subscribe to this apprehension when the highest court in the State consisting of constitutional functionaries has to decide the remanded proceedings. Day in and day out courts have to reconsider questions in proceedings on remand or recall. We have not the slightest doubt in our mind that the Division Bench of the High Court would dispassionately consider the merits of the appellant's case as they had no opportunity upto now to consider the same. However, it would be open to the Hon'ble the Chief Justice of the High Court who presided over the Division Bench that passed the impugned order to consider whether he would like to assign this remanded proceedings to any other Bench. It is entirely left to the Hon'ble the Chief Justice of the High Court and if he does so, it would be quite proper and appropriate. However, we entirely leave it to the discretion of the Hon'ble the Chief Justice of the High Court. We may also note that pending this proceedings, this Court had granted stay of the enquiry directed by the Chancellor on 9-1-1999. These proceedings will remain stayed till the final decision of the High Court in the remanded proceedings. So far as the suspension order passed by the Chancellor pursuant to the order of the High Court is concerned, the said order will remain stayed subject to the appellant's undertaking to this Court that he will proceed on leave forthwith and will continue to remain on leave till the remanded proceedings are decided by the High Court after hearing him and in the meantime, the present arrangement regarding discharge of the functions of the Vice-Chancellor on a day-to-day basis will continue. It is obvious that the suspension order as well as the enquiry

against the appellant will abide by the final result in the remanded proceedings. As the question about the functioning of the Vice-Chancellor is involved, it is in the interest of all concerned that the remanded proceedings are disposed of at the earliest convenience by the High Court. We request the High Court accordingly. No costs.