
(2010) 11 P&H CK 0150
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3336 of 2009

Priya Bhushan

APPELLANT

Vs

The Vice Chancellor, Ch. Devi Lal University

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Citation : (2010) 11 P&H CK 0150

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Judgement

Ranjit Singh, J.—The Petitioner has filed the writ petition seeking direction and writ in the nature of certiorari for quashing proceedings of Departmental Research Committee (DRC) and PG Board of Studies held on 04.04.2006 and 05.04.2006 in the department of English of Chaudhary Devi Lal University, Sirsa. This meeting of the Committee was held to select the candidates for the Ph.D. programme (English). Prayer is for issuing direction in the nature of mandamus to the University of the Vice Chancellor to set aside the selection and to take necessary departmental/disciplinary action against the members of DRC and the PG board of Studies.

2. The facts as noticed in brief are that the Respondent- University invited the applications for enrolment of Ph.D. programme in English pursuant to which the Petitioner made an application for being enrolled in Ph.D program in English. He received a call through letter dated 27.03.2006 to appear before the DRC. The case of the Petitioner was duly considered. The Petitioner claims to have submitted 5 copies of synopsis and appeared in person for presentation. It is averred that in all there were 12 candidates though in the attendance sheet the presence of 13 candidates was shown. The Petitioner claims that his presentation was good and was up to the satisfaction of DRC members. Later on the Petitioner came to learn about the illegal activities of the proceedings of the DRC and PG Board in the matter of selection of candidates. As per the Petitioner, even the constitution of DRC was illegal and one of the candidates selected was related to

the members of the DRC. Reference is made to name of Sanjiv Kumar one of the selected candidate, who is real brother of one member of DRC, namely Sh. Umed Singh. Some other allegations are also made against the remaining members. The Petitioner, accordingly, has filed this writ petition to make a prayer as noticed above.

3. In response to notice of motion reply is filed. The Respondent would plead that the writ petition is not maintainable. It is disclosed that the Petitioner had made application for registration without containing consent of the guide, which is a mandatory requirement but still the name of the Petitioner was considered. It is also disclosed that the writ petition is bad for misjoinder as the Petitioner has neither impleaded the effected students as party nor have impleaded the members of the selection committee, against whom he has made allegation of illegal activities and mala fides. It is also pointed out that the Petitioner had challenged the proceedings of the DRC and the Board, which was held on 04.04.2006 and has filed the writ petition in the year 2009. It is disclosed in this regard that the students have already completed their research and the degrees have been awarded to them. The Respondent would urge that having attended the process of selection and after participating in the process, the Petitioner could not make a grouse once he was found not fit to be registered for the Ph.D.

4. Even on merit, it is stated that the synopsis submitted by the Petitioner was not found satisfactory by the members of the DRC. It is only the self-assessment of the Petitioner to say that he had presented the good paper. By doing so, the Petitioner is becoming the judge of his own performance. Accordingly, the prayer is made for dismissing the writ petition on the ground as stated above.

5. At the outset, it was put to the counsel for the Petitioner as to how the writ court would exercise the power of judicial review against the decision of the Committee of the expert to evaluate his paper to determine if he was rightly rejected and other candidates wrongly selected. The judicial review is available again decision making process and not against the decision as such. The Courts can not sit as appellate authority to oversee the decision of the expert body in such like matter. The counsel was forthright in conceding that he would not press this limb of the prayer as contained in the writ petition and rather would press his second prayer for directing investigation in regard to the illegality committed by the members of the selection committee. The counsel has thus highlighted only one aspect of the allegation and this relates to selection of Sanjiv Kumar who is a real brother of one of the members of selection committed i.e. Umed Singh Lecturer.

The Respondents in reply, have placed on record Annexure R-11. This is an attendance record of members of the DRC of the meeting held on 04.04.2006. It is recorded therein:

Respondents younger brother of one of the members i.e. Umed Singh is the applicant and appearing for presentation today. Accordingly, such member i.e.

Umed Singh Lecturer was requested to leave the meeting quietly when the turn of such Sanjiv Kumar came for presentation. He was also advised to rejoin the meeting when the presentation was over.

6. The procedure as made above was fair. Merely because one of the candidate was related to members of the Committee would not itself mean that the illegalities have been committed in the entire selection process or that entire selection is vitiated. Counsel for the Petitioner by referring to Annexures P-6 and P-7 would point out that Umed Singh continued to be a member and there is no indication that he had not participated in the presentation of Sanjeev Kumar. Rather it is noticed in the proceedings that the Board had taken the decision unanimously.

7. Annexure P-7 is a proceeding of 05.04.2006. Annexure R-11 is a proceeding of the day, Sanjeev Kumar appeared before the selection Committee. There is no reason to doubt the record, especially so when the writ petition has been filed after more than 3 years of the date of the cause where as the record was prepared at the time of selection. It cannot be pleaded that the University will resort to fabricating the record and it is not the case set up by the Petitioner. No such record can now be prepared even.

8. This writ petition apparently is wholly misconceived. The Petitioner has primarily approached this Court for assessing his merit which is not the scope of judicial review. It is generally available against the decision making process and not the decision. The decision making process in this case apparently was conducted by adopting fair process. It does not suffer from any bias, discrimination or arbitrariness. The Petitioner had taken time at his leisure to make a present approach. As is stated in the reply, by now the candidates have already passed and have been awarded degree also. This appears to be a luxury litigation indulged only to waste the time of Court. Therefore, the writ petition is dismissed with costs of Rs. 10,000/-. Copy of this order be sent to Vice Chancellor of the University for his information as no one has appeared to represent the University at the time of arguments. Copy of this order be sent to Advocate General, Haryana to ensure that the order awarding costs is executed.