

(1999) 08 P&H CK 0077

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19037 of 1998

Ram Krishan Gupta

APPELLANT

Vs

Maharishi Dayanand University and Another

RESPONDENT

Date of Decision : 11-08-1999

Acts Referred:

Punjab University Act, 1947 — Section 10

Citation : AIR 2000 P&H 99 : (1999) 123 PLR 798 : (1999) 4 RCR(Civil) 284 : (2000) 1 RCR(Civil) 483

Hon'ble Judges : N.K. Sud, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : O.P. Goyal and S.K. Jaswal, for the Appellant; Balram Gupta, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—Petitioner is the president of a Society which is running several educational institutions in and around Charkhi Dadri in the State of Haryana including the Janta Vidya Mandir Ganpat Rai Rasiwasia College, Charkhi Dadri (for short the College) which is affiliated to the Maharshi Dayanand University, Rohtak (hereinafter referred to as the University). The College has a Managing Committee known as the Governing Body consisting of 21 members. The President, Vice President, General Secretary, Treasurer and the Secretary are the office bearers of the Governing Body. The first four are elected by the Governing Body of the Society and the Principal of the College is the ex-office Secretary. Out of the remaining 16 members, 11 are nominated by the President, one by the University, one by the State Government and three are representatives of the Faculty (staff members). Clause 25(1) of Statute 38 of the University deals with the constitution of the Managing Committees of non-government colleges affiliated to it. According to this provision, Governing Body of a private college must hold at least three meetings in a year. The relevant part of this Statute which has a bearing on this case, reads as under :--

"If the representatives of the University are not invited to a meeting of the managing body and/or a meeting of the governing body is held without the presence of the University representative, the proceedings of that meeting shall be regarded as invalid. In case, the University representative does not attend a meeting even after having confirmed his presence in writing the proceedings of such meeting shall be valid."

2. A meeting of the Governing Body of the College was to be held sometime in July, 1998. Principal of the College who is the ex officio Secretary convenes the meeting. He addressed a letter dated 2-7-1998 to Dr. R.D. Dixit, Professor of Geography who was the Vice Chancellor's nominee to propose a date for convening the meeting. In reply to this letter, professor Dixit wrote back stating "I propose that the meeting be held on Wednesday the 29th July at 11.00 A.M." Accordingly, a meeting of the Managing Committee of the College was fixed for 29-7-1998 at 11.00 A.M. in the Principal's office and the agenda was circulated to all the members on 18-7-1998. Two days before the meeting, Professor Dixit wrote a letter to the Principal of the College that in view of some urgent work of the University where his presence was necessary, the Vice Chancellor had ordered as under :--

"Governing Body meeting to be postponed as V.C.'s nominee that day is not available. Dr. Dikshit to attend the Selection Committee meeting".

He informed the Principal that he shall not be attending the meeting scheduled for 29-7-1998 and that "the meeting is deemed as postponed". In spite of the aforesaid letter from Professor Dixit, the Governing Body of the College met on July 29, 1998 and transacted its business as per the agenda circulated earlier. Minutes of the meeting were recorded by the petitioner who is the President of the Governing Body. The letter of Prof. Dixit was placed before the members of the Managing Committee on 29-7-1998 when the meeting was convened. All the members including the nominee of the Director of Higher Education, Haryana were of the view that the agenda was non controversial and in case the meeting was postponed it would create difficulties /obstacles in the disbursement of salary, payment of previous securities and payment of bills because Mr. J.P. Tewatia former Principal who had the power to operate bank accounts and sign cheques had retired on 30-6-1998. The first item on the agenda was to make arrangements for the operation of bank accounts. The Assistant Registrar of the University on behalf of the Registrar then addressed a communication on 25-9-1998 to the Principal of the College informing the latter that the matter had been considered by the Vice Chancellor and since his nominee did not attend the meeting of the Governing Body held on 29-7-1998 he had declared the said meeting invalid and, therefore, all the decisions taken in that meeting were inoperative. The Principal of the College again sought the consent of Dr. Dixit for holding a meeting of the Governing Body on 6-11-1998 for considering the letter dated 25-9-1998 received from the University. In reply thereto the Assistant Registrar, Colleges on behalf of the Registrar of the University informed the

petitioner that the matter had been considered by the Vice Chancellor and the Governing Body was advised to hold the meeting proposed for 6-11-1998. It is against this order of the Vice Chancellor that the present petition has been filed under Articles 226 of the Constitution. It is alleged that the action of the Vice Chancellor is not only illegal but also mala fide in view of his bias against the petitioner and the college.

3. In response to the notice issued by this Court, the respondents have filed their written statement controverting the allegation made in the writ petition.

4. We have heard counsel for the parties and are of the view that the writ petition deserves to succeed. The meeting of the Governing Body was fixed by the Principal only after the nominee of the Vice Chancellor had confirmed the date in writing. In response to the letter from the Principal, Dr. Dixit had himself proposed 29-7-1998 as the date for fixing the meeting. In the meantime the Vice Chancellor directed Dr. Dixit to attend a meeting of some selection committee which according to the Vice Chancellor was more urgent. The Vice Chancellor then ordered that the meeting of the Governing Body be postponed and directed Dr. Dixit to attend the selection committee meeting. Curiously enough Dr. Dixit wrote to the Principal that since he would be unable to attend the meeting fixed for 29-7-1998 "the meeting is deemed as postponed". Clause 25(1) of Statute 38 is very clear and if a meeting of the Governing Body of a College is held in the absence of the Vice Chancellor's nominee the said meeting is invalid but if the Vice Chancellor's nominee confirms his presence in writing and is unable to attend the meeting thereafter for any reason whatsoever and the Governing Body holds the meeting in his absence then the proceedings of such meeting are valid. In the case before us. Dr. Dixit who was the Vice Chancellor's nominee had himself proposed the holding of the meeting on 29-7-1998 and had, therefore, confirmed in writing that he would attend the same. Thereafter, when he could not make it to the meeting the Governing Body decided to go ahead in view of some urgent matter particularly the matter pertaining to the operation of bank accounts. In these circumstances, the meeting held by the Governing Body on 29-7-1998 is perfectly valid and the order of Vice Chancellor declaring it otherwise is illegal and cannot be sustained. The aforesaid statute does not give any power to the Vice Chancellor to postpone a meeting of the Governing Body which was convened after obtaining the consent of his nominee.

5. It was strenuously urged by the learned senior counsel appearing on behalf of the petitioner that the action of the Vice Chancellor is mala fide on account of his bias against the petitioner and group of institutions run by him. He referred to the previous history and some litigation that is pending between the parties. It is not necessary for us to go into the allegations of mala fides because we have already held that the action of the Vice Chancellor in declaring the meeting held on 29-7-1998 invalid, is illegal and contrary to the Statute of the University.

6. In the result, the writ petition is allowed and the impugned order of the Vice Chancellor declaring the meeting of the Governing Body held on 29-7-1998

invalid quashed. The petitioner will have his costs which are assessed at Rs. 5,000/- to be paid by the Vice Chancellor, personally from his own pocket.