

(2015) 10 KL CK 0087
In the High Court Of Kerala
Case No : WP(C) No. 20363 of 2015 (U)

Sabin George and Others

APPELLANT

Vs

Kerala Veterinary and Animal Sciences University and Others

RESPONDENT

Date of Decision : 12-10-2015

Acts Referred:

Kerala Veterinary and Animal Sciences University Act, 2010 — Section 21(3), 24, 25(4), 27(iii), 50(5)

Citation : (2015) 10 KL CK 0087

Hon'ble Judges : A.V. Ramakrishna Pillai, J.

Bench : Single Bench

Advocate : Asok M. Cherian and V.K. Prasad, Advocates, for the Appellant; Millu Dandapani, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A.V. Ramakrishna Pillai, J.—The petitioners are members of the Management Council of the 1st respondent constituted under the Kerala Veterinary and Animal Sciences University Act, 2010 (for short, "the Act"). According to them, the Management Council of the University is the supreme authority of the University, which was constituted on 14.01.2015. The petitioners point out that Section 24 of the Act prescribes that it is the duty of the Management Committee to elect five members to the Board of Management, which is the Chief Executive Body of the University. The present Board of Management, which was constituted under the transitory powers in the Act, has already overrun its statutory term of 3 years; it is alleged. The petitioners point out that though the Board of Management is a 14 member body, out of which 5 members have to be elected by the Management Council, the present Board of Management, which has been functioning from the very formation of the University, has only 8 ex-officio members and the posts for elected members are kept vacant all along. Although the term of the present Board of Management constituted under the transitory provisions in the Act expired long back, no step has so far been taken to reconstitute the Board of Management by conducting electing members from

various section, which hold stakes in the affairs of the University by the Management Council. Instead, the respondents are seeking to carry on the administration of the affairs of the University by keeping the expired and truncated Board of Management alive and convening its meeting on 08.07.2015; it is alleged. According to the petitioners, conducting meetings of the Board of Management, which is not constituted in accordance with law and the term of which has been run out, and taking important decisions with regard to the affairs of the University is illegal, arbitrary and liable to be prohibited. Hence, this writ petition.

2. Respondents 1 & 2 filed a counter affidavit contending as follows;

"The ex-officio members continuously hold office with successors in office joining as and when a vacancy due to change of individual occurs. The non-joining of any elected members does not invalidate the legality of the Board of Management has required quorum of one-fourth of the members (4) as per section 25(4) of the Act. The last ex-officio member joined on 05.12.2014 and last reconstitution was done thereafter. Ext. R1(a) is the true copy of the order of such reconstitution. The ex-officio members demit office only upon change in their original position or nomination by that body/organisation in each case. The delay, if any, in the conduct of elections to the Management Council was only because of the delay in issuing the First Statutes by the Government under Section 52(2) of the Act. As soon as First Statutes have been issued, the University has conducted due elections on 12.11.2014 to vacant positions in the Management Council. However, at this juncture, the Kerala Legislative Assembly vide letter No. 6880/Leg.2/2014/Leg.Sectt. dated 17.12.2014 informed that the First Statues are lacking provisions for the conduct of election of members of the Kerala Legislative Assembly to the Management Council and the same needs to be rectified. The Management Council, therefore, duly amended Statutes. Accordingly, the same is now before the Chancellor for the mandatory assent of the Chancellor as required under Section 50(5) of the Act. In the meanwhile, the 2nd respondent, keeping in mind the demand of various organizations to conduct elections to Board of Management, sought the permission of Chancellor vide Section 404(1) under Chapter 25. The 2nd respondent directed the Registrar to conduct the elections to the vacancies in the Board of Management within a month and enhance the quorum to all positions except those of Members of Legislative Assembly, whose elections to Management Council are pending. Ext. R1(b) Elector Roll has already been published and process instituted upon approval of Chancellor."

3. The petitioners have filed a reply affidavit.

4. Arguments have been heard.

5. Section 78(1) of the Act makes it mandatory to the First Vice Chancellor to constitute the Board of Management within six months from the date of commencement of the Act, i.e., 21.01.2011, or such a longer period not

exceeding one year as the Government directed by notification. As per Section 78(2), until an authority is duly constituted under the Act, the First Vice Chancellor may appoint any officer or constitute any committee temporarily to exercise and perform any of the powers and duties of such authority under this Act. The Chancellor has powers to nominate the members of the Council under Section 21(3) I & II and the Chancellor has powers to nominate two eminent scientists and two progressive and livestock and poultry farmers and one eminent educationist respectively to the Management Council and Academic Council under Section 27 (iii). The members nominated by the Vice Chancellor to the nominated positions of Management Council and Academic Council respectively shall hold office for a period of three years. In this case, the petitioners have confused about the nomination powers of the Chancellor with the separate powers of the First Vice Chancellor to constitute the First Board of Management before election to elected positions are conducted as per the Statutes.

6. As rightly pointed out by the learned Standing Counsel for the respondent University, as there are no nominated members of the Board from the Management, Section 80(2) is not attracted. Only elected members join upon periodic elections from the Management Council into the Board. It is evident from the counter affidavit that the 2nd respondent has already directed election to the vacant positions to the post of teachers and Dean in the Board of Management; and therefore, the prayer of the petitioners has already been addressed and taken into account by the respondent university.

7. The learned Standing Counsel for the respondent University also relied on Section 69 of the Act, which reads as follows;

"69. Proceedings of the University not to be invalidated - No act or proceeding of the Management Council or the Board of Management, Academic Council or any other authority or any body or committee of the University including a committee appointed by the Chancellor for the appointment of a Vice Chancellor, shall be deemed to be invalid at any time merely on the ground that -

(i) any of the members of any such authority, body or committee are not duly elected, appointed, nominated or co-opted or for any other reason are not available to take office at the time of the constitution or to attend any meeting thereof or any person is a member in more than one capacity or there is any other defect in the constitution thereof or there are one or more vacancies in the offices of members thereof; or

(ii) there is any irregularity in the procedure of any such authority, body or committee not affecting the merits of the matter under consideration."

Therefore, the proceedings of the University cannot be invalidated on the grounds (i) & (ii) stated above.

8. Regarding the contention of the petitioners that the term of ex-officio

members expired in May, 2014, the competent authority extended the term with ex-officio members of reconstitution until any further change of ex-officio members or election.

Therefore, on a consideration of the entire materials now placed on board, this Court is of the view that as the grievance of the petitioners has already been redressed, this Court is of the view that there is no scope for proceeding with the writ petition.

Hence, the writ petition fails; and accordingly, it is dismissed.