
(2012) 08 RAJ CK 0133
In the Rajasthan High Court
Case No : Civil Writ Petition No. 11743 of 2012

Sangram Singh

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 09-08-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 08 RAJ CK 0133

Hon'ble Judges : Narendra Kumar Jain, J; Arun Mishra, J

Bench : Division Bench

Advocate : Akhil Simlote, for the Appellant; A.K. Sharma, assisted by Mr. V.K. Sharma, for the Respondent

Final Decision : Allowed

Judgement

1. Admit. Heard finally with the consent of counsel appearing on behalf of the parties.
2. Petitioner, in the writ application, has prayed for relief to the effect that Clause 10(b) of the Constitution of the Rajasthan University Students' Union-2010(hereinafter referred to as "RUSU Constitution") and Rule 7 and 8 of RUSU Elections, Guidelines and Rules, 2010(hereinafter referred to as "the Rules of 2010") be declared ultra vires, being violative of Article 14 of the Constitution of India.
3. The petitioner has submitted that he was admitted in the Course of MSW, i.e. Master of Social Work(P.G. Course), duration of which is of two years and the same has been divided into four semesters of equal duration. The petitioner was given admission in the academic session 2010-11 by the respondents belatedly on 01.10.2010. Due to fault on the part of the respondent-University, academic session was delayed and by the time, the admission was given to the petitioner, elections for academic session 2010-11 were already held on 25.08.2010. The petitioner could not contest and vote in the aforesaid elections, as the same was

held prior to date of admission of the petitioner. The petitioner appeared in the first and second semesters and result of second semester was declared on 23.03.2012. Earlier, the elections were held on 20.08.2011 and students of MSW Course were again debarred from contesting elections or to cast their votes on the ground that they were given admission for the academic session 2010- 11 and by the time elections for the academic session 2011-12 were held on 20.08.2011, result of second semester was awaited. Due to fault of the University and delay in declaration of result, permission to contest the elections was not granted to the petitioner in 2011.

4. The petitioner completed second semester on 23.03.2012 and deposited the fees in the first week of April, 2012 for third and fourth semester. He appeared in the examination of third semester and his result has been declared on 07.8.2012, which is also not in dispute. It is also not disputed that the petitioner has passed three semesters and his admission continues in fourth semester.

5. The petitioner is questioning Clause 10(b) of RUSU Constitution, on the ground that provision made for the academic session is illegal and arbitrary and the condition imposed is also harsh. It is further submitted that interpretation made by the respondents is incorrect, as academic session cannot be interpreted in the manner, so as to defeat the right of the students to contest the elections for one reason or the other. Provisions have to be interpreted in pragmatic manner.

6. Mr. Akhil Simlote, counsel appearing on behalf of the petitioner has submitted that provisions of Clause 10(b) of RUSU Constitution and Rule 7 and 8 of the Rules of 2010 appear to be arbitrary. Academic session has not been defined anywhere under the Rules of 2010 or RUSU Constitution. He has further submitted that when a student is undertaking the course in the second year, he cannot be deprived of his right to contest the elections, as conferred upon him/her by RUSU Constitution and the Rules of 2010.

7. Mr. A.K. Sharma, learned Senior Counsel with Mr. V.K. Sharma appearing on behalf of the respondents has submitted that in view of clear language used in Clause 10(b) of RUSU Constitution, it is apparent that there is insistence upon the word, "Academic Session". The course of the petitioner had commenced in the year 2010. He was supposed to complete his course in academic session 2011-12. Now, academic session 2012-13 is going on. As such, once academic session, for which admission of the petitioner was made, is over, he is not eligible to contest the elections. He is undertaking the course in the second year of MSW Course. Thus, the decision taken by the respondent-University, in not treating the petitioner as eligible to contest the elections on the aforesaid ground, is valid. No case for interference is made out. He has also relied upon Rule 5, 7 and 8 of the Rules of 2010. He has also submitted that membership of RUSU shall be sealed as existing on the day of Notification for the RUSU Election. Notification for election has been issued today, i.e. 09.08.2012, as such, now there is no scope for including the petitioner in the election process.

8. Clause 10(b) of RUSU Constitution provides that membership of the Union shall be for the academic session of admission and shall automatically expire on the last date of academic session. Students of terminal semester/year, awaiting result, accordingly, shall neither be members of the Union at the expiry of the session, nor, thereby, eligible to vote/contest.

9. As per Clause 10(a) of RUSU Constitution, membership of the Rajasthan University Students' Union shall be automatic for all the students of P.G. Departments including M. Phil. students and Constituent Colleges of the University during the academic session of their admission. Clause 10(a) and 10(b) of RUSU Constitution are quoted below:

10. Membership

(a) Membership of the Rajasthan University Students' Union shall be automatic for all the students of P.G. Departments including M. Phil. students and Constituent Colleges of the University (by whatever name they are called), during the academic session of their admission.

(b) The Membership of the Union shall be for the academic session of admission and shall automatically expire on the last date of academic session. Students of terminal semester/year, awaiting result, accordingly, shall neither be members of the Union at the expiry of the session, nor, thereby, eligible to vote/contest

10. Rule 5 of the Rules of 2010 provides that for be sealed as existing on the day of Notification for the RUSU Election.

11. Further, it is provided under Rule 6 of the Rules of 2010 that no enrollment to membership will be made from the date of Notification upto the date of declaration of results of the Elections.

12. Rule 7 of the Rules of 2010 provides that inability of any student, otherwise eligible for membership, to obtain membership of RUSU on account of any reason whatsoever, including non-completion of examinations of the preceding academic session or non-declaration of the results thereof, on any account by the University, shall not obstruct the process of RUSU Elections, in any manner.

13. Rule 8 of the Rules of 2010 further provides that in view of Clause 10(a) and (b) of the RUSU Constitution, no person can become a member of RUSU unless he/she has been admitted/re-admitted upto the date of notification as a regular student in any programme of study for the academic session for which RUSU Elections are being held. Provisions contained in Rule 5, 7 and 8 are quoted below:

5. In view of Clause 25(C) of the RUSU Constitution, for elections in any Academic Session, Membership of RUSU shall be sealed as existing on the day of Notification for the RUSU Election.

7. Inability of any student, otherwise eligible for membership, to obtain membership of RUSU on account of any reason whatsoever, including non-

completion of examinations of the preceding academic session or non-declaration of the results thereof, on any account by the University, shall not obstruct the process of RUSU Elections, in any manner.

8. In view of Clause 10(a) and (b) of the RUSU Constitution, no person can become a member of RUSU unless he/she has been admitted/re-admitted upto the date of notification as a regular student in any programme of study for the academic session for which RUSU Elections are being held.

14. It is apparent from the facts of the instant case that the petitioner was admitted in first semester of MSW Course on 01.10.2010. He appeared in second semester, result of which has been declared on 23.03.2012. Thereafter, he was admitted in third semester in first week of April, 2012, examination of which has been held and the petitioner admittedly passed that examination. It is also not in dispute that for admission in fourth semester, the petitioner has deposited the fees in lumpsum at the time of admission in third semester. No fresh admission is required to be given to the petitioner for fourth semester to continue the study. As the academic session, in which the petitioner was admitted, is going on and the same has been delayed by the respondent-University, the provisions made in Clause 10(b) of RUSU Constitution have to be interpreted pragmatically, so as not to deprive the students of their right to contest the elections, if they are otherwise eligible for that.

15. It is not a case where the petitioner has failed or did not appear in any of the examination conducted by the University. The respondent-University has delayed the academic session in which the petitioner was given admission, which is not disputed. In our considered opinion, the petitioner cannot be deprived of opportunity to contest the elections, as envisaged in Clause 10(b) of RUSU Constitution. When the academic session is going on, may be for any year, as it has been delayed by the University, in case any election is being held during that academic session which is going on, for the practical purposes, on the date the election is being held, in case any candidate is otherwise eligible, he/she cannot be deprived of opportunity to contest the election. In case, he/she is not otherwise eligible, as provided in Clause 10(b) of RUSU Constitution, he /she cannot contest the election. It has been specifically provided in Rule 10(b) of RUSU Constitution that those students are debarred from contesting elections/casting votes, who are in the terminal semester or awaiting result. It is not the case where the petitioner has appeared in the terminal semester. It is also not the case where the petitioner is waiting the result of the year, in which he has studied. As such, the petitioner cannot be deprived of opportunity to stake his claim in the elections of the Union, which are being held.

16. It is trite law that Court has to make interpretation of provisions of law in such a manner, which will make the provisions workable and not to declare the same illegal and arbitrary. In our opinion, interpretation of provisions of Clause 10(b) of RUSU Constitution has to be made in the aforesaid manner, so as to make it workable and pragmatic.

17. Coming to Rule 7 of the Rules of 2010, we find that it is not the case of inability of the petitioner to obtain membership of RUSU on account of any reason whatsoever, including non-completion of examinations of the preceding academic session or non-declaration of the results thereof. Admittedly, petitioner's admission continues in fourth semester, as he has deposited the fees of this semester at the time of admission in third semester. Rule 8 of the Rules of 2010 also provides that no person can become a member of RUSU unless he/she has been admitted/re-admitted upto the date of notification as a regular student in any programme of study for the academic session for which RUSU Elections are being held. Now word "Academic Session" has again been used in Rule 8 of the Rules of 2010, but for practical purpose, it has to be interpreted in a pragmatic as well as aforesaid manner. It is not the case where admission/re-admission of the petitioner is required as on today or on the date, when the writ petition was filed. Thus, Rule 7 and 8 of the Rules of 2010 cannot come in the way of the petitioner, as they have to be interpreted in a pragmatic manner.

18. Coming to submission based upon Rule 5 of the Rules of 2010, as raised by Mr. A.K. Sharma, Senior Counsel appearing on behalf of the respondent-University, in view of interpretation made hereinabove, Rule 5 cannot come in the way of the petitioner. Thus, the petitioner has to be given an opportunity to participate in the election process, in case he is otherwise found to be eligible.

19. Writ petition is, accordingly, allowed to the aforesaid extent. Stay application is disposed of. I.A. No. 35111/2012 also stands disposed of.